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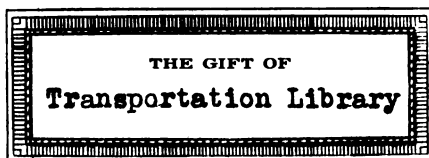
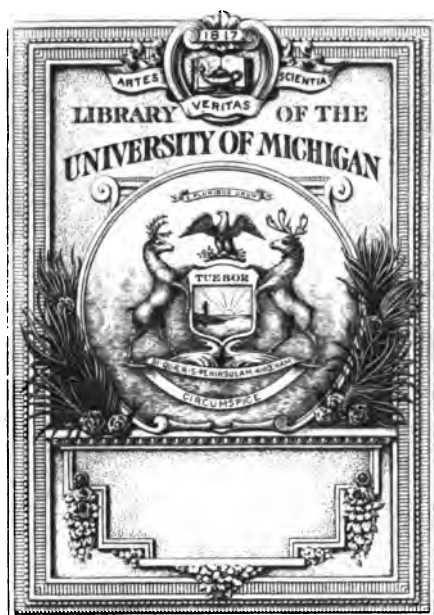
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DOCUMENTS
OF THE
SENATE
OF THE
STATE OF NEW-YORK,
FIFTY-NINTH SESSION,
1836.

John S. Gansevoort

VOLUME II.

No. 110 INCLUSIVE.



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STATE OF NEW-YORK.

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No. 66.

IN SENATE,

March 5, 1836.

REPORT

Of the committee on the judiciary on so much of the Governor's message as relates to the judiciary system, and also sundry resolutions of the Senate.

Mr. Edwards, from the committee to whom was referred so much of the Governor's message as relates to the judiciary system, and also the resolutions of the Senate of the 20th and 27th of January, and of the 9th of February, relative to an amendment of the constitution, together with the report of the justices of the supreme court,

REPORTED:

That from the best examination they have been able to give the several subjects referred to them for consideration, they have been unable to devise any measures wholly to relieve the judiciary from its present embarrassed condition by legislative enactment. The provisions of the constitution will not, in the opinion of the committee, admit of the necessary relief. It limits the number of justices of the supreme court to three. This number appears to be wholly inadequate to perform the onerous duties which now devolve upon that court. When the population of this state did not exceed three hundred thousand, it was found necessary to require the services of three justices of the supreme court to perform the business of the court. At the adoption of the new constitution, when the population of the State did not exceed one million three hundred thousand, the services of five justices were required, and the business of the court had so increased that they found them-

[Senate No. 66.]

A

selves unable to perform it. With a population of two million, one hundred and seventy-four thousand, five hundred, and an increase of business probably in proportion to, if not greater than that of the population, we have only the same number of justices of the supreme court we had at the organization of our government. It is true, the new constitution has relieved them principally from the performance of circuit duties, which has enabled them to devote more time to the duties of the supreme court bench; but while it has done this, it has reduced their number, and as it would appear to us, when we take into consideration the increase of business thrown upon the court, it has left the duties to be performed by the three justices, more arduous than those required to be performed by the five, under the old constitution. The embarrassed state of the court, so universally felt and regretted, and the reasons which have conspired to produce this result, are clearly shown by the report of the chief justice to the Assembly, in the session of 1835, and the report of the justices of the supreme court to the Senate during the present session; it is, therefore, unnecessary to detail them here.

It is now more than thirteen years since the present judiciary system has been in operation. During all of which time, the duties of the court have been discharged by men of acknowledged talents and ability in a manner which has been highly satisfactory to the public, and which has fully sustained that high and elevated character the bench had acquired under the old judiciary system. And although the labors of such men have been incessantly applied to a faithful discharge of their duty, yet with all their industry, talents and ability, we find the embarrassments which that court labored under before the adoption of the new constitution, and which then constituted one of the subjects of complaint under the old system, still exist, and again form the subject of complaint under the new constitution. The experience which we have had under the new judiciary system for thirteen years, without relieving the supreme court from that embarrassment it was supposed it would, demonstrates its entire insufficiency to effect that object. The only inquiry, therefore, seems to be, what shall be done to accomplish an object so desirable? Nothing short of adding to the number of justices of the supreme court can, in the opinion of the committee, effect it. Should an amendment of the constitution be made for this purpose, and should the circuit judges be relieved from equity duties, they may be organized into a superior court of

common pleas, and officiate in that capacity in addition to the duties required of them at the circuits.

A portion of the business which is now required to be performed by the supreme court, may with propriety be committed to the superior court, either with or without the right of appeal, as the Legislature may deem proper. And there can be no doubt of the ability of these two courts, not only to relieve the supreme court from its present embarrassments, but to prevent the like occurrences hereafter; but in adopting the plan proposed, it will be necessary to divest the circuit judges of their equity power, and to provide others to discharge those duties, which they are now required to perform as vice-chancellors. In reorganizing the vice-chancellor's court, such powers may be conferred upon them as will not only essentially serve to reduce the number of appeals to the court of chancery, but effectually relieve that court from the embarrassments under which it is now laboring. As numerous as appeals now are, under our present system, from interlocutory orders and final decrees of the several vice-chancellors to the court of chancery, it is impossible for any chancellor to perform the business of that court without great delay. The experiment has been fully tried in the labors of the present chancellor. With ability, talents and industry not surpassed by any of his predecessors, he has labored incessantly in the faithful discharge of the duties of his office for eight years, and yet he is compelled, after all his exertions, to acknowledge delay is inevitable. For a detailed statement of the arduous duties of that court, and the immense business the chancellor has performed, we would refer to his report made to the Assembly in the session of 1835.

We are fully satisfied that there is an indispensable necessity for affording relief for this court also; but we forbear to express any opinion as to the manner in which we believe it should be done, as that subject is already under consideration in the Assembly, and will, as we understand, soon receive the deliberations of that body.

In conformity to the views we have expressed in relation to the supreme court, we have prepared resolutions for an amendment of the constitution, and ask leave to introduce the same.

Resolved, That the following amendments to the constitution of this State be proposed, and referred to the Legislature next to be chosen, and that the Secretary of State cause the same to be pub-

lished for three months previous to the next annual election, in pursuance of the provisions of the first section of the eighth article of the constitution.

First. There shall be appointed two additional justices of the supreme court, each of whom shall possess all the powers of a justice thereof, and the said court shall consist of a chief justice and four justices, a majority of whom may hold the same.

Second. The Legislature may at any time hereafter establish and organize a superior court of common pleas, to be composed of the circuit judges, any five of whom may be required to hold the said court, in addition to the duties to be performed by them as circuit judges. The powers and jurisdiction of the said court shall be subordinate to the supreme court: and so much of the constitution as is inconsistent with these provisions, is hereby annulled.

Resolved, That the foregoing resolution be transmitted to the honorable the Assembly for their concurrence.

STATE OF NEW-YORK.

No. 67.

IN SENATE,

March 8, 1836.

REPORT

**Of the Comptroller, giving the amount of taxes paid by
each county from 1816 to 1826.**

COMPTROLLER'S OFFICE, }
Albany, March 5th, 1836. **}**

TO THE SENATE.

The Comptroller, in answer to a resolution of the Senate of the 26th of February, requesting him "to report to the Senate, what proportion of State taxes collected from 1816 to 1826, inclusive, was paid by each of the respective counties of this State," respectfully submits the annexed statement, marked A, in which the amount paid by the several counties, for each year, from 1816 to 1826 is given, with the total sum paid by each county for the whole time.

The aggregate sum paid by each Senate district, as at present organized, during the ten years embraced in the annexed statement, is as follows, viz:

First district,.....	\$1,035,695 96
Second do	509,565 44
Third do	395,771 87
Fourth do	255,557 45
Fifth do	243,121 05
Sixth do	209,932 36
Seventh do	241,448 69
Eighth do	169,043 21

Total,..... \$3,059,126 03

A. C. FLAGG.

[Senate, No. 67.]

A

STATE OF NEW-YORK.

No. 67.

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March 8, 1836.

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A. C. FLAGG.

[Senate, No. 67.]

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(A.

316 to 16

	11
	87,6
	2,3
	3,4
	1,5
	1,6
	1,7
	6,8
	1,9
	3,10
	3,11
	13,12
.....	
	6,13
	4,14
	5,15

(A.)

1816 to 1826 inclusive this State.

1820.	1825.	TOTAL.
\$7,631 58	\$5,130 91	\$112,012 12
807 59	525 48	10,713 07
2,306 63	801 79	22,912 18
3,408 19	2,629 55	44,893 13
1,786 22	572 01	14,631 74
1,702 87	898 65	18,020 22
1,384 97	792 45	16,301 96
6,619 27	4,835 15	87,940 45
1,799 13	1,065 64	20,150 74
3,326 74	1,760 95	40 524 20
3,845 54	1,526 85	37,303 38
13,953 95	7,636 88	170,573 50
.....	1,191 33	8,717 46
994 35	597 54	11,465 04
614 63	407 50	7,364 61
6,834 42	1,894 93	62,971 64
4,301 70	1,762 00	
5,180 00		

STATE OF NEW-YORK.

No. 68.

IN SENATE,

March 9, 1836.

REPORT

Of the committee on the judiciary, on the petition of Sally Goff.

Mr. Edwards, from the committee on the judiciary, to whom was referred the petition of Sally Goff,

REPORTED:

That the petitioner represents that in the year 1821, she was married to John D. Goff, at the town of Butternuts, in Otsego county; that she is the mother of six children; that the said Goff has frequently cruelly beaten and inhumanly treated her, and that in consequence of his inhuman treatment to her, and the neglect of his family, she has not cohabited with him for the last three years, during which time he has neglected to provide for his family, who have suffered for the necessaries of life; and that the said Goff, during the time she cohabited with him, and since, has frequently been guilty of adultery, and that therefore she solicits the passage of a law dissolving the marriage covenant.

The statements made by the petitioner as to the cruel and inhuman treatment of her husband, is proved by the affidavits of Danl. Chapel, Levi Barber, Freelove Barber and Joseph Cox, and of his having been guilty of adultery since his marriage, by the affidavits of the first and last of the above named witnesses; to which affidavits is annexed the certificate of Hiram Kinne, a justice of the peace, as to the credibility of the witnesses, and also his cer-

[Senate, No. 68.]

A

tificate and that of nineteen others, corroborating the statements of the petitioner, as to the ill treatment she has received from her husband.

The crime of adultery is the only one charged in the petition, which would entitle the petitioner to the relief she asks; and although the testimony produced appears to show the husband guilty of the crime with which the petitioner has charged him, still the committee cannot come to the conclusion that it would be prudent or discreet for the Legislature to dissolve the marriage covenant. The adverse party may have a defence, and as this application is made *ex parte*, he has not the same opportunity of showing it, as he would have in a court of equity. The court of chancery is the proper tribunal to hear and determine cases of divorce, and to that court, it appears to the committee the petitioner should have resorted for relief. There is nothing peculiar in the case to shew that the Chancellor has not ample jurisdiction, or to render the interposition of the Legislature necessary. They therefore recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

STATE OF NEW-YORK.

No. 69.

IN SENATE,

March 1, 1836.

THIRD ANNUAL REPORT

Of the Trustees of the Greenwich Savings Bank, for
the year 1835.

TO THE LEGISLATURE OF THE STATE OF NEW-YORK.

GREENWICH SAVINGS BANK, {
January 1st, 1836.

Pursuant to the provisions of an act, entitled "An act to incorporate the Greenwich Savings Bank," the trustees now beg leave to present their third

REPORT, AS FOLLOWS:

First.—That the trustees have received from two thousand and thirty-one depositors, from 1st January, 1835, to the 31st December, 1835, the sum of one hundred and twenty-five thousand and eight dollars and fifteen cents in the following manner:

In the month of January,	from 111 depositors,	\$8,423 89
" " February,	" 99 "	6,023 50
" " March,	" 134 "	9,480 08
" " April,	" 83 "	5,028 30
" " May,	" 156 "	10,055 72
" " June,	" 324 "	22,325 56
" " July,	" 204 "	13,429 05
" " August.	" 190 "	10,386 65

Carried forward,..... \$

[Senate No. 69.]

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Brought forward,.....				\$
In the month of September,	from 224	depositors,	12,860	06
“ “ October,	“ 183	“	10,108	80
“ “ November,	“ 160	“	7,491	79
“ “ December,	“ 163	“	9,394	75
			2,031	\$125,008 15

of which number, 549 are new accounts opened with the bank,
1,482 are re-deposits.

2,031

Second.—That the sum of seventy-two thousand four hundred and eighty-four dollars and three cents, has been drawn out by seven hundred and eighty-two depositors. Of this number two hundred and forty-seven have closed their accounts.

In the month of January,	paid 86	drafts,.....	\$6,908	22
“ “ February,	“ 64	“	5,821	63
“ “ March,	“ 61	“	5,679	68
“ “ April,	“ 58	“	7,501	85
“ “ May,	“ 65	“	5,568	77
“ “ June,	“ 30	“	1,323	39
“ “ July,	“ 78	“	11,186	40
“ “ August,	“ 70	“	5,398	22
“ “ September,	“ 49	“	4,154	88
“ “ October,	“ 60	“	8,148	65
“ “ November,	“ 83	“	7,676	94
“ “ December,	“ 78	“	3,115	40
			782	\$72,484 08

Third.—The depositors have been classed under the following heads of professions and occupations.

Apprentice,.....	1	Bandbox makers,	3
Attornies,	5	Basket maker,.....	1
Accountants,	3	Butchers,	2
Agents,	4	Bricklayers,	2
Architect,	1	Clerks,	16
Brass-founders,	3	Cartmen,	24
Bakers,.....	3	Cabinet-makers,	6
Boarding-house keepers, ..	4	Cupper and leacher,.....	1
Blacksmiths,	6	Carver,	1
Book-binder,	1	Carpenters,	45
Barber,	1	Confectioner,	1

Captains of vessels,	2	Plasterers,	7
Cordwainers,	2	Public house keeper,	1
Carpet weaver,	1	Painters,	3
Custom-house officer,	1	Pedler,	1
Coachsmith,	1	Pilot,	1
China store,	1	Painter's clerk,	1
Cutter,	1	Physicians,	2
Clergyman,	1	Shoemakers,	24
Coach maker,	1	Stone-cutters,	18
Carver and gilder,	1	Seamstresses,	15
Domestics,	34	Store-keepers,	3
Dress makers,	7	Sawyers,	2
Dyers,	4	Stock-makers,	2
Engraver,	1	Super'd mahogany y'd, ...	1
Fruit store keeper,	1	Sweep-master,	1
Founder,	1	School teacher,	1
Farmers,	5	Straw sewer,	1
Fishmonger,	1	Sexton,	1
Gardeners,	6	Ship-joiners,	2
Granite stone cutter,	1	Sculptor,	1
Gentleman,	1	Spring-water men,	3
Grate and fender maker, ..	1	Stone-mason, ...	1
Gas fitter,	1	Scavenger,	1
Grocers,	5	Shingle shaver,	1
Hair dressers,	2	Student at law,	1
Harness maker,	1	Stone sawyer,	1
Hatters,	2	Sewing furs,	1
House-carpenters,	5	Sash maker,	1
Iron founders,	3	Silk printer,	1
Laborers,	25	Starch maker,	1
Lecturer on astronomy, ..	1	Tailors,	15
Lawyer,	1	Tinman,	1
Midwife,	1	Tailoresses,	25
Merchants,	7	Teachers,	3
Milk-men,	6	Tavern keepers,	2
Masons,	23	Umbrella maker,	1
Milliners,	2	Victualler,	1
Mathematical instrument maker,	1	Weavers,	23
Marble polishers,	3	Waiter,	1
Mechanist,	1	Wheel-wrights,	2
Nurses,	6	Watch case maker,	1
Plumber,	1	Washer,	1
Paver,	1	Whitesmith,	1
Porter-house keepers,	2	Not described,	57
Printers,	6	Total,	549

DESCRIPTION OF PERSONS.

Widows,	54	Trustees' deposits in trust	
Minors,	50	for children, orphans, &c.	54
Single women,	67	Coloured persons,	12
	<hr/>		
	171	Total,	237

Fourth.—The deposits have been made in the following sums:

From	1 to	5 dollars,	256
"	5 to	10 "	252
"	10 to	15 "	147
"	15 to	20 "	218
"	20 to	30 "	262
"	30 to	40 "	122
"	40 to	50 "	193
"	50 to	60 "	71
"	60 to	70 "	50
"	70 to	80 "	51
"	80 to	90 "	27
"	90 to	100 "	128
"	100 to	200 "	139
"	200 to	300 "	52
"	300 to	400 "	25
"	400 to	500 "	26
"	500 to	600 "	3
"	600 to	700 "	1
"	700 to	800 "	1
"	800 to	900 "	2
"	900 to	1,000 "	3
"	1,000 to	2,000 "	2
		<hr/>	
		Total,	2,031

RECEIPTS.

From July 1, 1833, to Jan. 1, 1834, by 888 dep.	\$76,000 00
From Jan. 1, 1834, to Jan. 1, 1835, by 1,309 dep.	89,959 59
From Jan. 1, 1835, to Jan. 1, 1836, by 2,031 dep.	125,008 15
	<hr/>
5,228	\$293,068 63
Carried forward,	

Brought forward,.... \$293,066 63

REPAID.

From July 1, 1833, to Jan. 1, 1834, to 107	
drafts,	\$7,111 25
From Jan. 1, 1834, to Jan. 1, 1835, to 596	
drafts,	42,345 25
From Jan. 1, 1835, to Jan. 1, 1836, to 782	
drafts,	72,484 03
Total drafts,..... 1,485	<u>121,940 53</u>
Balance,.....	\$171,126 10

The funds of the institution are invested in and consist of,

1st. Funded debt of Pennsylvania, 5 per cents, at the	
par value,.....	\$20,000 00
½ per cent premium and charges paid on do	75 04
2d. Funded debt of Ohio canal 6 per cents, at par	
value,	15,000 00
17 per cent premium and charges paid thereon,.	2,593 87
3d. Chenango canal 5 per cents,	45,730 90
12½ per cent premium and charges thereon,....	5,716 36
Temporary loan to Commercial Bank, New-	
York, at the rate of 5 per cent per annum,..	40,000 00
Temporary loan to Greenwich Bank, New-York,	
at the rate of 5 per cent per annum,.....	48,853 75
	<u>\$177,969 92</u>

Present value of Pennsylvania 5 per cents is 107 to 108 per ct.

“ Ohio 6 per cents is 115 per cent.

“ Chenango canal 5 per cents, unknown, no sales.

GEORGE SUCKLEY, *President.*

B. B. HOWELL, *Secretary.*

STATE OF NEW-YORK.

No. 74.

IN SENATE,

March 15, 1836.

COMMUNICATION.

From the Chancellor, in answer to a resolution of the Senate of the 22d of January last.

To the President of the Senate.

I have the honor to enclose a report in answer to the resolution of the Senate of the 22d of January last.

Yours respectfully,

R. HYDE WALWORTH.

Albany, March 15, 1836.

To the Honorable the Senate of the State of New-York.

In obedience to a resolution of the 22d of January, 1836, requesting the Chancellor to inform the Senate, as near as he could conveniently ascertain, the number of causes originating in his court during the last year; how many appeals had been brought to his court from the several Vice-Chancellors; the number of causes noticed for hearing, and how many of them had been disposed of during the year, designating those which were brought before him on appeal, and also the number of causes which have been argued before him, and which remain undetermined, the undersigned

RESPECTFULLY REPORTS:

That the number of causes which have originated before the Chancellor during the year 1835, including a little more than one [Senate, No. 74.]

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hundred rail-road cases and other special applications upon original petitions, is 492; and the number which have been commenced before the Vice-Chancellors during the same period, is 2,017; making in all 2,509; of which number 687 were commenced before the Vice-Chancellor of the first circuit. The number of decrees and decretal orders, and other special orders or decisions, made in causes pending before the Chancellor during the same period, including cases brought before him on appeal, is 1,140; of which number 138 were decrees made in calendar causes. But calendar causes do not embrace the decisions upon appeals from interlocutory orders; such appeals being heard at the motion terms of the court and not placed on the calendar. The number of decrees and special orders, made during the same period in causes pending, is 3,057, which includes 798 decrees made in calendar causes; of the whole number 815 decrees and orders were made by the Vice-Chancellor of the first circuit, and 636 by the Vice-Chancellor of the eighth. The number of appeals which have been entered from the decisions of Vice-Chancellors, exclusive of those entered in one of the circuits from which no return of the number has been received, is 68. The undersigned has not been able to ascertain the precise number of appeal causes decided during the last year, as some were decided in court, upon the argument, and in some the decrees have not been entered upon the decision; but from his book of opinions, and register of causes heard and decided, he has been able to ascertain that a little more than sixty appeal causes have been decided by him since the first of March last, including two cases which, by special order, were directed to be heard as appeal causes. The number of causes and special applications, of all descriptions, remaining on hand undecided, including the causes heard and submitted at the last term, in which decisions have not yet been made, is sixty-two.

It is impossible to tell the precise number of calendar cases noticed for hearing, as causes are sometimes put upon the calendar for the purpose of being referred to the Vice-Chancellors for decision; and many are noticed and submitted by the parties on written arguments, without being placed on the calendar. A statement of the calendar at the last stated term of the court will probably furnish sufficient information on the subject required by the Senate. The number of causes on the calendar at the last term, including a few mortgage causes placed at the foot thereof during the term, was about 90, of which 45 were heard or submitted. The term

was held twenty-one days, including four days for the hearing of special motions and petitions; and the arguments of two of the appeal causes which were heard occupied ten days of that time. It is proper also to state that a preference is given to appeal causes over other causes of the same class; except in those cases in which, for special reasons, it is deemed improper to refer the case to a Vice-Chancellor to be heard and decided: so that very few litigated causes of the class upon pleadings and proofs are heard originally before the Chancellor, even in those cases where, from a want of jurisdiction, the bill could not have been filed before a Vice-Chancellor in the first instance. Most of the mortgage, partition and divorce causes in which there is no litigation, are now commenced before the Vice-Chancellors; except in those cases where the Vice-Chancellor who has jurisdiction of the case resides in a part of the State which is remote from the residence of the complainant's solicitor. In cases of the latter description, and in causes where there may be a doubt as to which Vice-Chancellor, if either, has jurisdiction of the case, originally, it is a great saving of expense to permit the cause to be thus commenced before the Chancellor in the first instance; and if any litigation arises therein the cause can be referred to any Vice-Chancellor to be heard and decided, whenever it is in a situation to be heard.

All which is respectfully submitted.

R. HYDE WALWORTH, *Chancellor.*

March 15th, 1836.

STATE OF NEW-YORK.

No. 75.

IN SENATE,

March 18, 1836.

REPORT

Of the select committee on several petitions for an opening in the Pier at Albany, and remonstrances against the same.

Mr. Gansevoort, from the select committee consisting of himself, Mr. Maison and Mr. Wager, to which were referred several petitions of owners of dock lots on the west side of the Albany basin, mechanics, traders and owners of real estate in the city of Albany, and captains and owners of vessels navigating Hudson's river and the canals of this State, praying for the passage of a law directing an opening through the Albany pier between the Columbia and State-street bridges; and certain documents presented to the Legislature at the last session; and also the remonstrance of the proprietors of the Albany pier, owners of dock lots and of merchants and others, occupants of the said city, against the same,

REPORTED:

That they have heard the petitioners and the remonstrants; have examined under oath several witnesses produced by the respective parties before the committee, and have given to the whole subject the most deliberate examination.

The petitioners represent that when the act was passed for the construction of the Albany pier and basin, they were the owners of docks, which then extended to the navigable waters of Hudson's river: That ever since the erection of the pier, those docks

[Senate, No. 75.]

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• have been rendered in a great degree inaccessible with river vessels: That the act for constructing the said pier was passed on a representation, on the part of the applicants therefor, that by means of a sloop lock to be constructed at the south end thereof, the water in the said basin would be raised so as to make it navigable for sloops at all times, which representation the petitioners allege has never been verified.

The petitioners further represent, that soon after the passage of said act, the said pier was constructed in Hudson's river, extending from the southeast corner of a dock belonging to the people of this State, in the fifth ward of the said city, to a point opposite Hamilton-street; and a sloop lock constructed at the south end of said pier, and a dock built at right angles from the west side of said sloop lock to the foot of Hamilton-street; and that two bridges (besides a bridge over the said sloop lock,) were also constructed, one opposite the foot of State-street and the other opposite the foot of Columbia-street, extending from these points in said city to the said pier; by means of which, the petitioners allege, they have been cut off from free access to the channel of said river.

The petitioners further represent, that by the provisions of the act for constructing said pier, all vessels entering into the said basin through the said sloop lock, are made chargeable with double dockage, the one-half of which is to be paid to the pier company, and the other half to the owners of certain docks in said city, as specified in said act: That the double dockage charged on vessels entering into the said basin, operates as a premium to vessels navigating Hudson's river, to make use of the east or river side of the said pier, instead of entering the basin; by reason whereof the petitioners owning docks on the west side of the said basin, are almost wholly deprived of the emoluments arising from their right of dockage: That the sloop lock and openings in the bridges so as aforesaid, constructed by the pier company, are narrow and inconvenient, and do interpose insurmountable obstacles against the free use of said basin, by the entire exclusion of all steamboats and many other vessels that navigate Hudson's river, from entering into the said basin: That the said pier and its appurtenances form an obstruction against the free passage and current of water in the said basin, whereby all the filth and sand flowing from the hills and streets of said city are deposited in front of the

docks of the petitioners, rendering them in a great measure useless for navigation with sloops and ordinary river craft: That some of the petitioners have been put to great expense in excavating the said sand and filth from the said basin in front of their said docks; but being, as above mentioned, almost excluded by the interposition of the said pier, from the free exercise of their right of navigating Hudson's river, the expenditure has been worse than useless.

The petitioners further represent, that by the said law the pier company are entitled to and do receive from the treasury of this State, the same tolls for the use of said basin, as are chargeable on the Erie and Champlain canals for the extent of said basin, although the west side thereof is formed by the docks of the petitioners.

The petitioners express their full conviction, that by making an opening through the said pier into Hudson's river, of sufficient width and depth to admit the passage of sloops and all other river craft through the same into the basin, between the Columbia-street and State-street bridges, erected across said basin, the injuries sustained by the petitioners will, in a great degree, be obviated, and will enable them to make expenditures and exertions for the clearing out and maintaining said basin in a navigable state, with some reasonable prospect of remuneration.

The memorial of the proprietors of the Albany pier, remonstrating against the application, refers the Legislature to the act to improve the navigation of the Albany basin, passed April 27, 1835, and states that in pursuance of the provisions of the said act, the common council of the city of Albany, by an ordinance of the 19th Oct. last, have directed that the sloop lock and the passages through the bridges shall be widened to the width of fifty feet, for the admission of sloops and river craft; that the greater part of the bulkhead at the southern termination of the basin shall be removed; that the wharves on the western margin of the basin shall be extended, so that such increase shall not exceed thirty feet at any one point, and to increase the width of the opening of the pier at its northern termination to one hundred and ten feet, and excavate the whole area of the basin to a depth of at least eight feet at the lowest tide.

The Pier company further state, that these improvements for the navigation of the basin have been commenced, and that when they shall have been completed, a convenient and perfect navigation will exist throughout the whole of the said basin, and that the only subjects left unimproved, which are necessary to make the internal navigation of the basin to yield the greatest benefits to the community, are the unimproved condition of the lots owned by several of the petitioners who ask to have the new cut made through the pier.

In addition, the Pier company in their remonstrance, urge several reasons against the prayer of the petitioners, which have received the attention of your committee.

On the part of the petitioners, it is urged and insisted, that after the improvements authorized by the said law and directed by the common council, shall have been made, that the part of the Albany basin, between the State-street and Columbia-street bridges, which contains an area of more than double the extent of the basin south of the State-street bridge, will not be used for the accommodation of river vessels, because the charge of double dockage upon every vessel entering the Albany basin will exclude river vessels therefrom, unless the facilities are made so easy as to obviate every difficulty or delay in either entering or descending from the basin into the river; and further, that the difficulties and delays occasioned by the passages through the draws of the sloop lock and the State-street bridge, (even after the contemplated improvements shall have been made) connected with the usually crowded condition of the basin below the State-street bridge, will prevent river vessels from coming into the basin between the State-street and Columbia-street bridges.

It appears that the basin below the State-street bridge is small, and oftentimes, in the language of some of the witnesses examined before the committee, so thronged, that the boats therein form a bridge for an hour from the west shore to the pier; and that in such cases, it is extremely difficult to make a passage through that basin, and that vessels often lose a tide, and are frequently delayed even to the loss of a passage when the wind is favorable.

The petitioners further represent, that the docks owned by them on the west side of the said basin, are, in pursuance of the law of the last session, to be extended thirty feet at the sole expense of

the petitioners; that they are also to be assessed for their proportion of all the expense of widening the northern and southern openings in the pier, for deepening the basin, and for the other improvements to be made under said law; the whole expense of which the pier owners in their remonstrance estimate at not less than eighty thousand dollars.

The petitioners therefore complain that they are to be subjected to all these heavy assessments, without the prospect of any adequate remuneration, unless the obstacles to the occupation of that part of the basin between the State-street and Columbia-street bridges shall be removed. The petitioners aver that the Albany basin, even when improved, will not justify or warrant the expenditures necessary for the erection of proper stores and warehouses on their dock lots, for commercial purposes, unless the access to them shall be made more easy than it will be after the contemplated improvements shall have been made.

Under these circumstances the petitioners appeal to the legislature for relief; and pray for the passage of a law authorizing an opening to be made in the Albany pier, between the Columbia-street and State-street bridges, of sufficient width for public accommodation.

It was abundantly shown to your committee, by the testimony of many witnesses, that the difficulty and delays in passing through the draws of the sloop lock and State-street bridges will greatly retard the passage of vessels: that the basin south of the State-street bridge is small and usually very much crowded with river vessels and canal boats, rendering it very difficult and tedious for the passage of a vessel through the same. These witnesses, who are engaged in business connected with vessels, forwarding merchants and captains of vessels, testify that the opening in the pier asked for by the petitioners, if not less than sixty feet in width, would be a great public accommodation; and that in addition to the works now authorized to be done, such an opening is necessary for that purpose.

The witnesses produced by the petitioners unite in the opinion that commercial operations would thereby be rendered more easy and convenient, and that the increasing public business demands that the opening should be immediately made. The witnesses produced by the Pier proprietors testified that the opening would be a

public convenience; and all the witnesses examined by your committee agree in the opinion that the opening can be made without any injury to the Pier.

Objections were urged by the Pier proprietors, arising from the deposits which the cross currents would form in consequence of the opening: on this subject there was a contrariety of opinion; and your committee, from the whole evidence before them, are led to the conclusion that if deposits should be formed they would accumulate very slowly, and might easily be removed by dredging.

It was also objected by the pier proprietors that the opening would cut off the communication afforded by the street along the river side of the Pier: in answer thereto it was satisfactorily shewn to your committee, that a suitable draw-bridge can be thrown across the opening, so that such inconvenience will, in a great measure, be removed.

The difficulty of entering the opening was presented by the Pier proprietors, but obviated by the testimony of several old and experienced captains of vessels navigating Hudson's river, who testified as their opinion that some difficulty may be found during very high freshets, but even then there will not be so much difficulty in going into the opening as there is in entering between the piers in the harbor of New-York where the ordinary current is very strong.

From a due consideration of the whole subject, your committee present the following conclusions:

First. That the business of the public would be greatly promoted by making such an opening through the Albany pier, between the State-street and Columbia-street bridges.

Second. That it can be safely done without endangering the stability or permanency of the pier.

In this conclusion, your committee are also sustained by the opinion of Benjamin Wright, a distinguished civil engineer, contained in the following letter, addressed to one of the petitioners, and in evidence before your committee.

ALBANY, Feb'y 4, 1835.

DEAR SIR,—You ask my opinion of the effect of a cut, or opening through the pier, from the basin between the two bridges

into the channel of the river, at this place?—and whether there would be any danger to the stability and permanency of the pier, by such cut?

I believe the pier is 60 or 80 feet wide, and that for commercial purposes an opening is desired, 60 or 70 feet wide.

I see no difficulty in securing the pier, with such a cut through it. I should take care to round the lower corner thus

River.



And to make corner A very strong, by heavy piles, as fenders placed side by side, and flatted and secured by long iron bars, in the manner we secure the corners of our projecting piers or wharves in the harbor of New-York, where they are exposed to heavy drift ice. This will secure it against all danger. The other corners only want security, by good fenders well fastened on, to secure against vessels passing in and out beating them to pieces. There is no difficulty at all in executing this, so as to secure the pier perfectly.

Very respectfully,

Your obedient serv't,

BENJ. WRIGHT.

J. R. BLEECKER, Esq.

Third. That if deposits should be caused by such opening, they would be inconsiderable; would require some time for accumulation, and if permitted to accumulate, could easily be removed by dredging.

In view of the great and increasing business of our canals, your committee are impressed with the necessity of giving every facility to commercial operations, at the ports of transshipment; and the time is not far distant, when the whole area of the Albany basin will be required for the accommodation of the canal and river craft.

Under these impressions, and with these views, your committee unanimously recommend the passage of a law, authorizing an opening through the Albany pier, as prayed for by the petitioners,

not less than sixty feet in width; and as the expenses of all the work to be done, under the law of the last session, for the improvement of the navigation of the Albany basin, are to be assessed and apportioned after the full completion thereof, by Commissioners to be appointed for that purpose by the Governor; your committee deem it their duty further to recommend, that the said opening shall be made simultaneously with, and as a part of, the work contemplated by the said law, and that the expense thereof, be assessed and apportioned by the same Commissioners, as a part of the improvements already authorized and directed under an ordinance of the common council of the city of Albany, in pursuance of the provisions of the said law.

In accordance with these views, your committee ask leave to introduce a bill.

STATE OF NEW-YORK.

No. 77.

IN SENATE,

March 19, 1836.

COMMUNICATION

From the Governor, transmitting a preamble and resolutions of the Legislature of Michigan, in relation to slavery.

TO THE SENATE.

I have the honor to transmit herewith a preamble and resolutions passed by the Legislature of Michigan, in relation to the abolition of slavery.

W. L. MARCY.

Albany, March 18, 1836.

[Senate, No. 77.]

A

REPORT

Of the select committee in the Senate, to whom was referred so much of the Governor's message as relates to the abolition of slavery, as adopted and passed in the Senate and House of Representatives, March 4, 1836.

They have given to the subject all that dispassionate and anxious consideration which its importance demands, and can discover no power delegated by the Federal Constitution, authorizing an interference with the domestic relations of the southern States. On the contrary, they find that the regulation of slavery is left by the Constitution amongst the reserved rights of the States, and that its modification or abolition can only be effected by the States themselves. The committee are therefore satisfied that any intrusion upon the domestic slavery of the south, by any other State or the General Government, would be a palpable violation of the Federal Constitution, and an unauthorized and unjustifiable violation of the rights of others.

The formation of our Union, was the work of patriotism, actuated by a spirit of forbearance and compromise of opinion, having in view the protection of the rights of every member of the confederacy. It was an experiment made by the friends of civil liberty, upon which are based the hopes of mankind, in the assertion of the sacred privileges of self-government. "The offspring of common sufferings and common triumphs," this Union can only be preserved by a community of feeling amongst the citizens of the respective States. Upon this feeling rests the fabric of our government, and the agitation of any subject calculated to destroy it, and embitter the cup of our prosperity, should be rebuked and silenced by the overwhelming voice of the American people. No question has arisen since the formation of the government, so important to its welfare, as that of the abolition of slavery; and none has ever required more seriously the prompt interference of the patriot, to stay the hand of the incendiary in their fanatical and misguided attacks upon the institutions of his country.

On the adoption of the Federal Constitution, the States surrendered to the General Government certain express powers:—all powers not expressly delegated to the United States were reserved to the States, or to the people of the States. Amongst these reserved powers, was the exclusive regulation of the institution of slavery. As a guarantee for the surrender of certain powers to the General Government, the States were *ensured a more perfect Union, their common defence, their general welfare and domestic*

tranquillity. Such are the obligations of our Union. We would ask the abolitionist to reflect upon their sacred character, and answer for their violations! We would point him to the consequences of his labors:—bitter, violent and excited feelings between brothers of the same great political family; States arrayed against States in angry discussions; and institutions reared by the wisdom and cemented by the blood of our ancestors put in jeopardy—institutions which have brought us, through their perfection, to the elevated position of an enlightened and free people; which have proved themselves the guard of all our privileges and rights, the nursery of genius and valor, the incentive of reason in her pursuit of knowledge, “the spur of probity, humanity and generosity.”

The committee, impressed with the importance of the subject committed to their charge, would respectfully submit the following resolutions:

Resolved by the Senate and House of Representatives of the State of Michigan, That regarding domestic slavery of the southern States, as a subject exclusively within the control of said States, every interference with the subject by the General Government or any other States, is an assumption of power not delegated by the Federal Constitution.

Resolved, That the freedom of the press, and the freedom of speech, are sacred and inviolable rights guaranteed to the people; but that in proportion to their sacredness and value, is the obligation to preserve them from abuse.

Resolved, That the formation of societies, and the acts and proceedings of individuals in the non-slaveholding States, having for their object an interference in the rights of the slaveholder, are in direct violation of the obligations of the compact of our Union, and destructive to the tranquillity and welfare of the country.

Resolved, That the Executive be requested to transmit a copy of this report and resolutions to the Governors of each State; and also to the Senators and Representatives of this State in Congress.

STATE OF NEW-YORK.

No. 79.

IN SENATE,

March 21, 1836.

COMMUNICATION

**From the Governor, transmitting resolutions from the
Legislature of Kentucky on the subject of abolition
societies.**

TO THE SENATE.

I have the honor herewith to transmit to you a report and resolutions passed by the Legislature of Kentucky, on the subject of abolition societies and the domestic institution of slavery in the southern States.

W. L. MARCY.

[Senate No. 79.]

A

RESOLUTIONS

Respecting Abolition Societies.

The select committee, to whom was referred so much of the Message of the Lieutenant and acting Governor, as relates to the abolition societies at the north, together with the preambles and resolutions of the States of North and South Carolina, in relation to the same subject, have had the same under consideration, and beg leave to report:—

That although your committee have not been able to ascertain the precise number and extent of such societies, yet they are satisfied of their existence, and that their object is to produce an entire abolition of slavery in the United States, by printing and circulating, through the post-offices and other modes of communication, tracts, pamphlets, almanacs and pictorial representations; the manifest tendency of which is, to produce a spirit of discontent, insubordination, and perhaps, insurrection with the slave population of the country.

Your committee have not thought it a part of their duty to present to the House, upon this occasion, a formal vindication of the justice and propriety of the institution of domestic slavery. To do so, would involve a recognition of the right of those northern abolitionists to question it. For this institution, the people of Kentucky hold themselves responsible to no earthly tribunal, but will refer their cause to him alone, through the mysterious dispensation of whose providence, dominion has been given to the white man over the black. He, alone, may judge of its compatibility with His will; and of its political expediency, we who witness its practical operation, are best competent to speak.

The Commonwealth of Kentucky, so long as she remains a sovereign member of this confederacy, can never permit *another State* to assail her local institutions, much less a combination of private individuals. If the States of this Union were bound together by no common tie, if the federal constitution were annihilated, every principle of international law would still prohibit the citizens of one State from interfering with the domestic policy of another. How much more forcible then, is their obligation to abstain from such interference, when we are united together by a common instrument, which guarantees to each State, where the

institution of slavery exists, its perfect inviolability. Yet the strange scene is exhibited to the world, by the abolition societies, of private individuals combining to effect that, which the States of which they are members, are restrained by the sacred provisions of the constitutional compact, from attempting. Had all this been the work of foreign incendiaries, meditating the most effectual mode of assailing our peace and quiet, whatever sentiments of indignation may have been inspired, it would have caused no surprise. But when it proceeds from those with whom we are united by every tie which can bind a people together in concord and affection, your committee cannot restrain the expression of surprise and mortification.

Your committee will not deny that recent manifestations of public opinion in the north, have inspired them with the gratifying hope, that the wild and fanatical spirit which guides and directs the conduct of the abolition societies, have not yet been imparted to the great body of the people; yet the history of the world too fatally attests the deep and irreparable mischief which may be effected by the organized action of a few zealous enthusiasts, especially when their minds become so heated and sublimated as to imagine themselves the special executors of the divine will. They *must* grow and strengthen, and whenever they become sufficiently numerous to exercise an influence in the political contests, by which a free people are perpetually shaken, the history of the American Union, with all the high and glowing visions which now gladden the heart of the patriot, will have been written.

Whilst, however, your committee have been gratified with the spirit which has characterized the numerous and respectable meetings of our northern brethren upon this deeply interesting subject, and their emphatic denunciations of the plans of those misguided fanatics, they would have been still more gratified, had they thought proper to interpose the more powerful and effectual remedy of penal legislation. But your committee do not entertain this hope; enough has transpired to convince them that under the miserably perverted name of free discussion, these incendiaries will be permitted to scatter their firebrands throughout the country, with no check but that which may be imposed by the feeble operation of public opinion. Your committee are as deeply impressed with the value of the high privilege which is secured to the citizen by the constitution of the country—the right of full and free discussion, as can be those who are prostituting it to such unhallowed purposes. But the freedom of the press is one thing—its licentiousness another; whilst the one is justly dear to every freeman, the other is the object of deep reprobation. It cannot be that the right of discussion at the north, carries with it the right to excite a portion of the population of a sister State to rapine and murder. When the constitution of the country guarantees to every citizen the right to publish and speak his opinions upon all subjects, it wisely fixed the limitation that he shall be responsible for the abuse of that privilege. Your committee are unable to conceive a grosser prostitution of the freedom of the press, than the effort of the abo-

litionists to stir up a portion of the population of eleven States of this Union to rebellion and bloodshed. May we not, however, appeal to the constitution of the land in behalf of the tenure by which we hold our property, with the same confidence that they appeal to their constitutional right of discussion. The rights which are sought to be violated by these fanatics, are not less sacred by all the sanctions of the charter which binds us together, than is the unrestricted freedom of the press, to which they appeal, in vindication of their right to scatter their licentious productions among us.

Your committee would assure our brethren at the north, that this Commonwealth is still animated by the same ardent devotion to the union of these States, which has ever marked her political history; but they feel that they would be violating the high trust reposed in them by the House, did they not in terms firm, yet respectful, admonish them of the certain and tremendous consequences which must attend this officious and dangerous interference with their domestic institutions. If, as your committee fear, all invocation upon the justice of the north be in vain, it remains for the Commonwealth of Kentucky to look to her condition—to declare to the world her determined resolution to maintain inviolate, her domestic institution, and make good that declaration by all the safeguards which legislation can create.

Your committee would respectfully recommend the adoption of the following resolutions:

Resolved by the General Assembly of the Commonwealth of Kentucky, That this Commonwealth alone has power to regulate and control the subject of domestic slavery as it exists within her territory, and any attempt on the part of the federal government to interfere with it in any manner, would be at war with the solemn sanctions of that instrument which binds us together.

Resolved, That the General Assembly views with unqualified reprobation, the formation of abolition societies at the north, for the purpose of circulating incendiary publications among the slaveholding States of the Union, as a violation of the original basis of the federal compact, and calculated to endanger the integrity of this Union.

Resolved, That any attempt by Congress to abolish domestic slavery within the District of Columbia, would be regarded by this Commonwealth as a breach of the implied faith of the nation, towards the citizens of that District, and as an usurpation of power, which, if acquiesced in by the slaveholding States, must end in the ultimate disregard, by that body, of the constitutional tenure by which they now hold their property.

Resolved, That our sister States, where domestic slavery exists, be, and they are hereby assured of the earnest co-operation of the State of Kentucky, to resist, at all hazards, every effort to interfere with that subject, either by Congress, any State, or combination of private persons.

Resolved, That his Excellency, the Lieutenant and acting Governor be requested to transmit a copy of this report and resolu-

tions to the Executive of each State, and to each of our Senators and Representatives in Congress, with a request to said Executive to lay the same before their respective Legislatures.

JNO. L. HELM,

Speaker of the House of Representatives.

CYRUS WINGATE,

Speaker of the Senate.

J. T. MOREHEAD.

Approved 1st March, 1836,

By the Lieutenant and acting Governor,

A. P. Cox, *Secretary.*

STATE OF NEW-YORK.

No. 82.

IN SENATE,

March 28, 1836.

REPORT

Of the Commissioners of the Land-Office, on the petition of Jesse Porter and others.

The Commissioners of the Land-Office, on the petition of Jesse Porter and others, inhabitants of the county of Warren, referred to them by the honorable the Senate,

REPORT:

That the petitioners represent themselves as being in the occupancy of a part of the gore north of the 12th township in Totten and Crossfield's purchase, and pray for the passage of a law directing the Commissioners of the Land-Office to grant to the petitioners, at the present appraisal, certain lots in the said gore set opposite their names, respectively.

The Commissioners of the Land-Office beg leave to state, that on the 5th May, 1788, a resolution was entered that township number twelve, in Jessup's, or Totten and Crossfield's purchase, should be granted to John Thurman, at one shilling and two pence per acre, and that letters patent did, on the same day, issue to the said John Thurman. This patent was intended by the Commissioners to convey township number twelve only, but in the patent, described as bounded southerly on the north bounds of the town of Hyde, actually situate 220 chains south of the most southerly bounds of township number twelve. The tract of land south of number 12, and north of Hyde township, contained, by a compu-

[Senate, No. 82.]

A

tation of the late Surveyor-General, about 9,860 acres of land exclusive of about 700 acres covered by a previous patent.

That in chapter 55, of the laws of 1800, passed 25th March, 1800, entitled "An act for the relief of John Thurman, and for other purposes," in which the mistake in the grant to the said Thurman is recited and confirmed to him, on the condition that on or before the first day of July, 1802, ("he the said John Thurman) pay into the treasury of this State the sum of fourteen hundred dollars, in satisfaction of the said lands so included in the said letters patent by mistake, or re-convey to the people of this State all the lands so included in the said letters patent which do not come within the lines of the twelfth township."

It appears, from the account of John Thurman in the Comptroller's books, that the above condition had been complied with, and the grant of course confirmed.

An additional claim to lands, under the same patent, has also been made by John Thurman, (or his assignees,) to a parcel of land lying north of township No. 12, which has heretofore been resisted by the Commissioners. It is for a part of this tract, designated in the sales book kept in the Surveyor-General's office as the gore between townships No. 12 and 14, which had been surveyed and subdivided in 1822, and advertised for sale in 1823.

In the general sales book we find a memorandum in Mr. De Witt's hand writing, in pencil, "surveyed in 1822, sale omitted in 1823, by advice of Attorney-General."

We find also on file a statement of the grant and reference to the law above referred to, giving an expose of the whole subject matter of Thurman's claim, in the hand writing of Simeon De Witt, late Surveyor-General, and to which he has affixed his signature, from which the following is an extract relative to the claim to the gore between townships number twelve and fourteen.

"It has been proposed to have the question settled, by submitting it to the court, to which Mr. Parker, for Gilchrist the claimant, assented, as soon as the Attorney-General would attend to it, nothing however was done.

"Payment has only been made for the 25,200 acres in the township, and the 9,860 acres between it and Hyde, but not for the land in the gore north of it."

Thus it appears that a portion of the gore is claimed adversely, and notwithstanding the Commissioners of the Land-Office are satisfied that the claim of the State is good and can be sustained, yet, until they can have the advice of the Attorney-General, and the adverse claim of Thurman or his assignees be disposed of, legally or otherwise, they are of opinion that the prayer of the petitioners be denied.

All which is respectfully submitted.

March 26, 1836.

WILLIAM CAMPBELL,
A. C. FLAGG,
JOHN A. DIX,
A. KEYSER.

STATE OF NEW-YORK.

No. 83.

IN SENATE,

March 29, 1836.

COMMUNICATION

From the Governor, transmitting resolutions passed by the Legislature of Pennsylvania, relative to the public lands.

TO THE SENATE.

I herewith transmit to you resolutions passed by the Legislature of Pennsylvania, relative to the distribution of the proceeds from the sales of the public lands, and for other purposes.

W. L. MARCY.

March 26, 1836.

[Senate, No. 83.]

A

RESOLUTIONS

Relative to the distribution of the proceeds arising from the sale of the public lands, and for other purposes.

WHEREAS, by the official statements from the Treasury Department of the United States, it appears there will be an unappropriated balance in the treasury, above the ordinary demands of the government, subject to the action of Congress during the present session: And whereas, it is presumed that the wisdom of Congress will not suffer that fund to accumulate in the treasury without devising means by which it can be usefully employed for the benefit of the people of this Union: And whereas, some of our sister States deny to Congress the constitutional power of making internal improvements in the several States, while all seem to admit the power and propriety of distributing the proceeds arising, or which may have arisen from the sale of the public lands, amongst the several States, subject to the control of their respective Legislatures: And whereas, the proportion to which Pennsylvania would be entitled, should such distribution be made, would enable her to complete her public works, and establish a fund for the support of common schools, which would preclude the necessity of taxation for either purpose: And whereas, it is the policy of our government to guard against the increase of Executive patronage, and especially against the accumulation of large sums of money in the treasury unappropriated: And whereas, a very large proportion of surplus revenue arises from the sales of the public lands, the joint property of all the States, which is regarded as a source of revenue which ought to be applied in the promotion of education, by establishing a system of common schools—to the purposes of internal improvement—or such other purposes, as will best promote the interests of the States respectively:

Therefore,

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That our Senators in Congress be instructed, and our Representatives be recommended, to use their influence to procure the passage of a law to distribute the proceeds arising, or which may have arisen, from the sale of the public lands, amongst the several States, in proportion to the number of members from each State, in the House of Representatives of the United States.

Resolved, That our Senators in Congress be instructed, and our Representatives be recommended, to vote for a liberal and judicious expenditure of public money for the completion and construction of fortifications for the common defence.

Resolved, That the Governor be requested to forward to each of our Senators and members of Congress from Pennsylvania, a copy of the foregoing ~~preamble and resolutions~~; and also, to the Governors of the several States, with a request that they shall be laid before their State Legislatures, requesting their co-operation.

NER MIDDLESWARTH,

Speaker of the House of Representatives
THOMAS S. CUNNINGHAM,

Speaker of the Senate.

Approved: the fifteenth day of March, A. D. eighteen hundred and thirty-six.

JOSEPH RITNER.

SECRETARY'S OFFICE,
Harrisburgh, March 16, 1836. }

I hereby certify the above to be a true copy of the original resolutions now remaining on file and of record in this office. Witness my hand and seal of office, the day and year aforesaid.

THO. H. BUNOWES,

Secretary of the Commonwealth.

STATE OF NEW-YORK.

No. 84.

IN SENATE,

March 30, 1836.

REPORT

Of the committee on the judiciary, on the petition of
Chauncey Brainard.

The committee on the judiciary, to whom was referred the petition of Chauncey Brainard,

REPORTED:

That information in the nature of a *quo warranto*, was filed by the Attorney-General in the name of the people of the State of New-York, against the president, directors and company of the Utica and Minden turnpike company, on the 10th of December, in the year 1830. That the defendants appeared by their attorney and plead thereto; and that the issue thus joined was tried at the Oneida circuit, and found against the defendants; that judgment was rendered thereon on the 22d of November 1831, and that the costs were taxed against the defendants, at one hundred and thirty-six dollars and sixty-one cents. That a *fieri facias* was issued to the sheriff of the county of Oneida, and returned *nulla bona*.

In the month of February, in the year 1835, an application was made to the Supreme Court, by the Attorney-General, in the name of the people, against the president and directors of the said company, for a rule or order that some one or all of them pay the Attorney-General the costs of the proceedings, by information in the nature of *quo warranto*, in the said cause, together with costs of

the motion, or that an attachment issue, or for such other order as the court might deem proper.

The copies of the affidavits and notice of the motion, were served on the petitioner, as one of the directors of the company, and he employed counsel to oppose the motion. It appears however, the motion was granted; for the petitioner alleges that he was compelled to pay fifty-five dollars and seventy-three cents, which sum he now asks to have refunded to him, alleging as a reason, that he had been frequently chosen director of the company, yet he had for several years before the commencement of the suit, utterly refused to act as such director, or to attend any of the meetings of the directors or stockholders of the company.

Whether he interposed his defence before the court on the motion for costs or not, does not appear; but whether he did or not, the committee are of the opinion he is not entitled to relief. If he did not, he ought to have done so, if he supposed his defence was a valid one; but if he did avail himself of his defence on the motion, and then failed, the judgment of the court should be held final and conclusive against him. The committee therefore recommend the following resolution.

Resolved, That the petitioner have leave to withdraw his petition.

STATE OF NEW-YORK.

No. 85.

IN SENATE,

April 5, 1836.

COMMUNICATION

From the Governor, transmitting a report and resolutions adopted by the Legislature of the State of Maine, relative to the subject of slavery.

TO THE SENATE.

Enclosed I have the honor to transmit to you a report and resolutions of the Legislature of the State of Maine, relative to the subject of slavery.

W. L. MARCY.

Albany, 4th April, 1836.

[Senate, No. 85.]

A

REPORT AND RESOLUTIONS

STATE OF MAINE.

The joint select committee, to whom was referred the message of the Governor, communicating the report and resolutions of the Legislatures of North-Carolina, South-Carolina, Georgia, Alabama and Virginia, on the incendiary proceedings of the abolitionists in the non-slave-holding States, report, That they have given to the subject the consideration which it demands from its importance, as interrupting the harmony, and thereby endangering the union of these States.

The federal compact owed its origin to the spirit of deference, conciliation and mutual forbearance, which pervaded the then independent States; and was formed for the purpose briefly set forth in the preamble to the Constitution, to insure domestic tranquillity and provide for the common defence.

To insure these two great and all important purposes, definite powers were conceded by the States, the Constitution of the United States was formed, and the federal government created.

The powers then conceded are ample to effect the great objects of the Union; and though for defined purposes the several States form one great nation, yet in other respects, they are to each other as sovereign and independent nations; each State having a Constitution of its own, and yielding obedience only to the enactments of its own Legislature.

Any interference therefore, of a State, or the inhabitants of a State, with the domestic concerns of another State, is dangerous, as having a direct tendency to create jealousies between the States, and thereby weakening the attachment to the Union which is our only security against domestic dissensions and foreign aggressions.

Slavery is a question in which we as a State have no interest. It is unknown in Maine, and those States who recognize its existence, have the exclusive control of the subject within their borders. As one of these United States, it is not for Maine, or the citizens of Maine, to interfere with the internal regulations of any other independent State; no possible good can result from such an interference with affairs over which they can exercise no control.

That these are the sentiments of the great mass of the people of Maine, is evinced by the numerous public meetings which were held in every part of the State the past season, in proof of which your committee adduce the following resolution, passed unanimously at the meeting in Portland, the largest city in Maine, on the 15th of August last.

Resolved, That it is the bounden and sacred duty of good citizens of every State, carefully and scrupulously to avoid all interference and attempts to interfere, and all manifestations of any intention or wish to interfere, with the peculiar interests, concerns, laws and domestic policy of every other State in the Union; and that all such acts of interference, where they tend to disturb the quiet, to alienate the feelings, to provoke the jealousies, or to jeopardize the safety of citizens of States, made unwilling subjects of such officious intermeddling, deserve, and ought to receive the reprobation of every friend to his country.

Similar resolutions have been passed at public meetings, by the inhabitants of Augusta, Bangor, Hallowell, Brunswick, Bath, Waterville, and by many other towns, too numerous to be mentioned; and we may with confidence assert, that however divided on other great political questions, on this subject but one feeling pervades the State, and that the discussion of the question of slavery has been arrested in Maine by public sentiment, more effectual in its operation than any law which could be enacted.

Under these circumstances, and in consideration of the fact that no abolition paper is printed in Maine, your committee would deem any legislation on the subject as uncalled for, unwise and inexpedient, as tending to excite a discussion which has subsided. They therefore report the following resolutions, which are herewith submitted.

CHARLES JARVIS,
LEVI JOHNSON,
FREDERIC GREENE,
RUFUS McINTIRE,
ELIAKIM SCAMMON,
OBED WILSON,
SEWALL LAKE,
STEPHEN C. FOSTER,
ALFORD RICHARDSON,
NATHAN C. FLETCHER,
CHARLES GORDON.

Resolve relating to the discussion of Slavery in the State of Maine.

Resolved, That the United States government is a government of enumerated, limited and defined powers, all which are set forth in the Constitution; and that all powers not granted in that instrument are reserved to the States or to the people.

Resolved, That the power of regulating slavery within the confines of a State was not granted, and therefore does not exist in the general government.

Resolved, That excepting so far as they are united for certain and defined purposes, the States forming the confederacy of the United States, are, with respect to each other, distinct and sovereign States, each having a separate and independent government, the action of which, under the limitations of the Constitution of the

United States, and within the confines of the State, is not to be questioned by any power save the people of that State; and that any interference by a State, or by the inhabitants of a State, with the domestic concerns of another State, tends to break up the compromises, and disturb the harmony of the Union, and should be discountenanced by every good citizen.

Resolved, That in Maine the discussion of the question of the abolition of slavery having been arrested by the decided expression of public disapprobation, and no abolition paper being printed within the borders of the State, legislation on the subject is inexpedient.

Resolved, That the Governor be requested to forward a copy of this report and these resolutions to the Executive of North-Carolina, South-Carolina, Georgia, Alabama and Virginia, and to the Executive of each of the other States, with a request that they be communicated to their respective Legislatures.

In the House of Representatives, March 21, 1836. Read and passed.

In Senate, March 21, 1836.

March 22, 1836. Approved.

JONA. CILLEY, *Speaker*.

Read and passed.

JOSIAH PIERCE, *President*.

ROBERT P. DUNLAP.

STATE OF NEW-YORK.

No. 86.

IN SENATE,

April 6, 1836.

REPORT

Of the Commissioners of the Land-Office, in obedience to the resolution of the Senate relative to lands escheated to the State on the death of John G. Leake.

The Commissioners of the Land-Office, in obedience to a resolution of the Senate, dated the 25th of March, which is in the following words, viz:

Resolved, That the Commissioners of the Land-Office be requested to report to the Senate whether any of the real estate of the late John G. Leake, which escheated to the people of this State, remains unsold, and if any, where it is situated, and its estimated value. That they also report the amount that has been received in the treasury from real estate so escheated, and the time when received, and what amount is due to the State on bonds, mortgages, land contracts, or otherwise, by reason of the sale of said escheated lands, or any part thereof."

Respectfully submit the following

REPORT:

That portion of the real estate of the late John G. Leake which escheated to the people of this State, and which has been recovered by the Attorney-General, and remains unsold, is fully described in the report of the Attorney-General to the Commissioners of the Land-Office, a copy of which is annexed and marked A. These lands are situated in the counties of Saratoga, Warren and

[Senate, No. 86.] A

Essex, and consist of 3,236 acres. They have not been appraised, and the Commissioners have no information to guide them in forming an estimate of the value of them.

The statement marked B, shows the amount which has been received into the treasury from real estate belonging to the late John G. Leake, and which has been sold by the Surveyor-General, and also the amount due on bonds and land contracts, by reason of the sale of said escheated lands.

The real estate in New-York was sold at auction, on the 30th day of November, 1831, for the sum of \$62,700. Of this sum, \$15,679 was paid at the time of sale, and bonds were given for the residue. These bonds have all been paid, including the interest on them, which amounted to \$5,704.47: making a total sum paid into the treasury, on account of the sale of real estate in the city of New-York, of \$58,404.47.

The lands in the county of Delaware were contracted to the occupants or purchasers, according to the provisions of chap. 116 of the Laws of 1831. The amount of sales of real estate, in the county of Delaware, was \$18,354.72. Of this sum, \$2,292.50 was paid down, and bonds were given for the residue. The total amount of interest on these bonds, to the first of April, is \$1,861.77; of which the sum of \$1,276.59 has been paid. There is due of principal and interest, the sum of \$8,400.18.

Eight lots in township No. 4, Old Military Tract, in the county of Clinton, containing, after deducting the quantity sold for taxes, 4,649 acres, were sold by the Surveyor-General, in 1832, for the sum of \$2,896.77. The avails of these lots were given to the commissioners for opening a road through certain lands belonging to the School Fund, in the county of Clinton, as authorized by chap. 94 of the Laws of 1832.

The amounts for which the several parcels of land have been sold are as follows, viz:

In the city of New-York,	\$62,700 00
In Delaware county,	18,354 72
In Clinton county,	2,896 77
	<hr/>
	\$78,951 49

The amount of interest actually paid into the treasury, is \$8,-981.06. The total amount of principal and interest, to the first of April, for the real estate sold, is \$86,608.35. This does not include interest on the sum of \$2,896.77, transferred from the treasury to the road commissioners, as before stated, by virtue of chap. 94 of the Laws of 1832.

There are a number of lots and parcels of land, of which, it is believed, John G. Leake died seised, but which have not yet been recovered by the Attorney-General, viz:

One lot near German-Flatts, in Bayard's purchase, containing about 900 acres.

An assignment of the interest of three of the associates of Wm. Bayard, in a purchase of 150,000 acres of land on the south side of the Mohawk river. This land was purchased for the crown, of the Oneida Indians, but at the expense of Wm. Bayard and his associates. And the three persons referred to assign such right as they may acquire in a patent which is expected to issue, provided their names are inserted in the same, or the names of any other persons are inserted in trust for them.

Eight lots in Sumnersvale, in the county of Essex. Two lots in this tract have been recovered by the Attorney-General.

A tract of land lying between the Cookquaga branch of the Delaware and Susquehannah rivers, in the town of Franklin, containing 1,000 acres.

Fifteen lots in township No. 13 of the Twenty Townships, on the west side of Unadilla river, containing about 3,000 acres.

The interest of Thomas Palmer in 2,500 acres of land in Ulster county, being part of 11,500 acres adjudged by the Commissioners of the Land-Office to be the property of said Palmer and his associates, by virtue of a purchase made in 1772 from the Indians.

Eleven lots in the township of Hyde, on the west side of Hudson's river.

One equal undivided fourteenth part of a tract of 15,120 acres, on the west side of Ticonderoga.

Albany, April 5, 1836.

A. C. FLAGG, *Comptroller.*

JOHN A. DIX, *Sec. of State.*

WILLIAM CAMPBELL, *Sur. Gen.*

A. KEYSER, *Treasurer.*

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The second part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The third part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The fourth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The fifth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The sixth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

The seventh part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are determined by the laws of the theory of the structure of the atom.

DOCUMENTS.

(A.)

ATTORNEY-GENERAL'S OFFICE, }
Albany, June 11, 1834. }

The Attorney-General reports to the Commissioners of the Land-Office, that in several actions of ejectment brought by him under and pursuant to Title XII. of Chap. IX. of the First Part of the Revised Statutes, the following lands have been recovered, on the ground of their having escheated to the people of this State on the death of John G. Leake, late of the city of New-York, deceased.

In the counties of Saratoga and Warren.

In an action against claimants unknown, lot No. 19, in the rear division of Palmer's purchase, situated mostly in the town of Athol, in the county of Warren, and partly (about one-fifth,) in the town of Day, in the county of Saratoga, and partly (about one-tenth,) in the county of Hamilton, containing 1,049 acres.

In an action against claimants unknown, lot No. 31, in the middle division of Palmer's, situate in the town of Day, in the county of Saratoga, containing 1,058 acres.

In an action against Caleb Salisbury, 160 and a half acres of land on the northerly end of lot No. 50, in the river division of Palmer's purchase, situate in the town of , in the county of Saratoga, to be laid out by a line drawn parallel to the northerly line of said lot.

In an action against Reuben Wells: All that part of said lot No. 50, bounded as follows: on the north by land possessed or claimed by Caleb Salisbury, on the east by land possessed or claimed by Nathaniel Odell, on the south by land possessed or claimed by Benoni Aldridge, and on the west by land possessed or claimed by Abner Wait, containing 108 acres.

In an action against Nathaniel Odell: All that part of said lot No. 50, bounded as follows: on the north by Caleb Salisbury, on the east by the east line of said lot, on the south by land claimed or possessed by Benoni Aldridge, and on the west by land possessed or claimed by Reuben Wells, containing, by estimation, 30 acres.

In an action against Benoni Aldridge: All that part of said lot No. 50, bounded as follows: on the north by land possessed or claimed by Abner Wait, Reuben Wells and Nathaniel Odell, on the east by the east line of said lot, on the south by land possess-

ed or claimed by Daniel Allen, and on the west by the west line of said lot, containing 180 and a half acres.

In an action against Daniel Allen: All that part of said lot No. 50, bounded as follows: on the north by land possessed or claimed by Benoni Aldridge, on the east by the east line of said lot, on the south by land possessed or claimed by Zina Austin, and on the west by the west line of said lot, containing 57 acres.

In an action against Zina Austin: All that part of said lot No. 50, bounded as follows: on the north by land possessed or claimed by Daniel Allen, on the east by the east line of said lot, on the south by land possessed or claimed by David Johnson and John Johnson, and on the west by the west line of said lot, containing 114 acres. And also about 5 acres, being a three cornered piece, taken from the northwest corner of David and John Johnson's lot, on the west line of No. 50, making in both parcels, 119 acres.

In an action against David Johnson and John Johnson, 300 acres on the southerly end of said lot No. 50, to be laid out by a line drawn parallel to the southerly line of said lot; excepting thereout 15 acres of land possessed or claimed by Edward Scoville, and and whereon a saw-mill now stands; and also excepting five acres sold by David and John Johnson to Zina Johnson, from the northwest corner of said 300 acres, and lying in a right angle triangle.

In an action against Edward Scoville, 15 acres situate on the southerly line of said lot No. 50, bounded as follows: on the north, east and west, by land possessed or claimed by David Johnson and John Johnson, and on the south by the south line of said lot, and whereon a saw-mill now stands.

In the county of Essex.

In the tract called Summersvale, in the town of Crown-Point, in the county of Essex.

In an action against John Floyd: All that part of lot No. 28 in said tract, bounded as follows: on the east by the east line of said lot, on the south by the south line of said lot, and on the west by land possessed or claimed by William Perkins, and on the north by the north line of said lot, containing 30 acres.

In an action against John Wallis: 40 acres in the north easterly part of lot No. 72, in said last mentioned tract, bounded as follows: on the north by the north line of said lot, on the east by the east line of said lot, and on the south and west by land possessed or claimed by Leonard Hildreth.

In an action against Leonard Hildreth: 100 acres, being the residue of said lot No. 72.

In the several suits above mentioned, against tenants in possession of the premises, the defendants respectively suffered judgment by default; and in all the foregoing suits, writs of possession have been executed, and the writs have been returned and filed in the office of the clerk of the supreme court in the city of Albany.

GREENE C. BRONSON,

Attorney-General.

(B.)

Statement of sales of Leake's escheat in Bedlington, Delaware county.

Lot.	OBLIGOR.	Principal,	Int. to April 1, 1836.	Interest paid.	Principal paid.	Amount paid.	Amount due.
1	M. S. Bostwick,	\$88 00	\$15 24	\$11 49	\$26 89	\$68 39	\$64 66
7	H. P. Chase, 1031 a,	291 00	61 11	34 92	.....	34 92	317 19
8	Z. Barker, 1041 a,	310 88	65 10	37 80	.....	37 80	288 28
9	P. Launett, 1031 a,	175 00	36 75	21 00	.....	21 00	190 75
10	G. H. Edgerton,	240 00	50 40	28 80	.....	28 80	261 40
11	do	225 00	46 60	27 00	.....	27 00	244 60
12	W. R. Sheldon,	130 00	95 10	15 80	.....	15 80	149 50
13	Jabez Bostwick,	229 00	99 94	31 89	114 50	146 43	192 45
14	G. H. Edgerton,	150 00	31 00	18 00	.....	18 00	168 00
15	H. P. Chase,	198 00	41 03	28 32	.....	28 32	213 51
16	G. H. Edgerton,	113 00	33 65	18 56	.....	18 56	123 99
17	Chandler Flown,	75 00	15 75	13 90	.....	13 90	76 85
N. 1	John B. Yonders,	55 00	8 19	8 19	55 00	63 19	.....
S. 1	Geo. Weissman,	77 24	12 85	12 32	67 68	80 00	10 49
18	do	130 00	31 40	26 60	.....	26 60	155 40
19	Chs. Port,	85 00	17 79	14 81	.....	14 81	87 98
S. 1	Not escheated, .....	.....	.....	.....	.....	.....	.....
N. 1	Jabez Bostwick,	76 00	13 24	10 61	38 00	48 61	40 63
20	.....	.....	.....	.....	.....	.....	.....
21	Dani. Bush,	28 00	5 88	8 36	.....	3 36	30 52
S. 1	N. H. Brandt,	43 00	7 44	5 05	16 95	22 00	28 43
22	Geo. Miller,	112 50	20 25	17 00	.....	17 00	116 75
N. 1	.....	.....	.....	.....	.....	.....	.....
23	.....	.....	.....	.....	.....	.....	.....

STATEMENT--CONTINUED.

Lot.	OBLIGOR.	Principal.	Int. to April 1, 1836.	Interest paid.	Principal paid.	Amount paid.	Amount due.
N. 1 24	Lester Stewart,	\$66 00	\$7 35	\$7 35	\$66 00	\$73 35	\$61 00
S. 1 24	Wm. Stewart,	56 00	11 72	6 72	.....	6 72	
25	Not escheated.				.....	
26	G. H. Edgerton,	112 00	23 15	13 44	.....	13 44	121 71
27	do	75 00	3 65	.....	.....	.....	78 65
28	do	75 00	15 70	9 00	.....	9 00	91 70
29	S. Knapp and N. Soper,	75 00	15 75	13 50	.....	13 50	77 25
N. 1 30	Nelson Soper,	62 00	13 02	11 16	.....	11 16	63 86
S. 1 30	Saml. Knapp,	101 00	21 21	17 81	.....	17 81	105 40
31	Abm. Covert,	150 00	31 50	27 00	.....	27 00	154 50
N. 1 32	Saml. W. Andrews,	112 00	23 52	14 92	.....	14 92	120 60
S. 1 32	Alanson C. Mallory,	84 00	17 58	10 08	.....	10 08	91 50
33	Not escheated.						
E. 1 34	Jona. Silliman,	112 00	20 18	18 44	.....	18 44	119 74
W. 1 34	Ananias Covert,	75 00	15 75	9 00	.....	9 00	80 75
N. 1 35	Jabez Bostwick,	75 00	13 66	10 46	37 50	47 96	40 10
S. 1 35	do	84 00	14 69	11 77	42 00	53 77	44 99
36	do	140 00	23 85	19 55	70 00	89 55	74 30
37	G. H. Edgerton,	118 00	24 70	14 16	.....	14 16	128 54
38	Jabez Bostwick,	75 00	3 88	.....	.....	.....	78 72
39	Danl. Merrill,	75 00	15 69	18 50	.....	18 50	77 19
40	Aaron L. Atchinson,	112 00	17 59	12 08	42 12	54 20	75 39
S. 1 41	Thos. Andrews,	93 00	19 53	11 16	.....	11 16	101 37

SENATE

N. †	Not escheated. do	10 35	4 53	9 12	13 65	51 70
41	Ammon Bostwick,	10 35	4 53	9 12	13 65	51 70
42	do	47 10	40 50	.....	40 50	231 60
43	Ammon Bostwick,	10 13	40 50	.....	145 13	167 76
44	Wm. Millard,	32 24	18 48	135 00	18 48	206 90
45	Sylvester Rich,	42 08	36 18	.....	36 18	48 72
46	G. H. Edgerton,	3 72	2 25	24 00	26 25	77 50
47	Wm. Millard,	15 70	13 50	.....	13 50	66 03
48	Calvin L. Merrill,	11 85	11 43	.....	11 43	.....
49	J. W. Parmelee,	6 98	6 98	93 00	99 98	.....
50	Sylvester Rich,	23 45	20 16	.....	20 16	115 29
51	Wm. Millard,	6 98	6 98	93 00	99 98	.....
52	S. Rich,	23 52	13 44	.....	13 44	122 08
53	A. Stoddley,	23 83	13 44	.....	13 44	121 89
54	G. H. Edgerton,	25 28	18 04	62 00	80 04	91 24
55	Abial Drake,	31 40	27 00	.....	27 00	154 40
56	John Edgerton,	15 70	9 00	.....	9 00	81 70
57	John Peters,	31 40	9 00	.....	9 00	172 40
58	Geo. Gates,	39 27	11 25	.....	11 25	215 02
59	Amos Hawley,	21 63	13 00	.....	13 00	111 63
60	N. St. John,	16 71	12 14	28 46	40 60	69 11
61	Oliver Bolton,	10 88	4 53	9 12	13 65	51 73
62	Ammon Bostwick,	11 12	8 17	31 79	39 96	37 16
63	J. W. Parmelee,	23 28	19 56	19 78	39 34	95 94
64	Allen Bisbee,	12 90	12 90	172 00	184 90	.....
65	S. Rich,	19 72	19 72	133 00	152 72	.....
66	Geo. Gay,	47 25	13 50	.....	13 50	258 75
67	Ammon Bostwick, .....	.....	.....	.....	.....	.....

STATEMENT—CONTINUED.

Lot.	OBLIGOR.	Principal.	Int. to April 1, 1836.	Interest paid.	Principal paid.	Amount paid.	Amount due.
N. 1 66	E. B. Howland,	\$112 00	\$20 85	\$11 80	\$18 00	\$29 80	\$99 85
S. 1 66	do	84 00	16 92	8 81	6 39	15 20	85 72
67	Geo. Gay,	147 00	22 92	22 92	147 00	169 92	
68	John Peters,	248 00	51 91	43 23	.....	43 23	256 68
S. 1 69	Anna Kimble,	47 78	10 03	10 00	.....	10 00	47 81
N. 1 69	Not escheated.						
70	Asahel Otis,	174 00	30 42	30 42	174 00	204 42	
71	Nathan Stilson,	172 00	29 86	22 39	77 61	100 00	101 86
72	John Edgerton,	187 00	39 15	33 66	.....	33 66	192 61
S. 1 73	Enos Bartlett,	99 00	20 79	12 00	.....	12 00	107 79
N. 1 73	Lyman Tower,	89 00	4 75	4 75	89 00	93 75	
Gore N. " 74	do	14 00	75	75	14 00	14 75	
	Not escheated.						
Gore N. " 74	John Jeslu,	4 00	42	42	4 00	4 42	
N. 1 75	And the gore adj., J. Jeslu, ..	118 00	12 87	12 47	104 00	104 40	4 40
S. 1 75	Not escheated.						
76	A. Hawley,	250 00	52 50	30 00	.....	30 00	272 50
Gore N. " 76	do	20 00	4 20	2 25	.....	2 25	21 95
77	S. Chilson,	229 00	33 29	33 29	229 00	262 29	
Gore N. " 77	do	19 00	3 99	1 20	.....	1 20	21 79
	Old Mill Tract, T ^b . 4.						
59	Peter Smith,	120 00	7 66	.....	.....	.....	127 66
		\$10,062 22	\$1,861 77	\$1,276 59	\$2,249 91	\$3,514 43	\$8,400 18

STATEMENT

Of amount of sales of lots 11, 22, 31, 35, 72, 88 and 90, of township No. 4, in the Old Military Tract, transferred to John Palmer and Platt Newcomb, by the Commissioners of the Land-Office, per act, chap. 94, page 157, of 1832, for opening a road through certain lands belonging to the School Fund, in the counties of Clinton and Franklin.

Amount of first payment on the sale of said lands,....	\$718 00
Amount of bonds transferred as above,.....	2,178 77

\$2,896 77

STATEMENT

Of lots of land situated in the city of New-York, late the property of John G. Leake, deceased, escheated to the State.

Lot.	OBLIGOR.	Principal.	Interest.	Interest paid.	Principal paid.	Amount paid.	Amount due.
1	Wm. A. Seeley,.....	\$3,000 00	\$152 42	\$152 42	\$3,000 00	\$3,152 42	
2	do	2,362 00	120 05	120 05	2,362 00	2,482 05	
3	do	1,143 00	58 10	58 10	1,143 00	1,201 10	
4	do	1,143 00	58 10	58 10	1,143 00	1,201 10	
5	do	1,331 00	67 73	67 73	1,331 00	1,398 73	
6	do	2,625 00	133 56	133 56	2,625 00	2,758 56	
7	John S. Brown,.....	2,156 00	24 81	24 81	2,156 00	2,180 81	
8	Richard R. Ward,.....	2,268 00	165 95	165 95	2,268 00	2,433 95	
9	do	1,875 00	137 19	137 19	1,875 00	2,012 19	
10	do	3,018 00	88 02	88 02	3,018 00	3,106 02	
11	do	2,325 00	67 81	67 81	2,325 00	2,392 81	
Wharf lot,	W. A. Seeley,.....	1,275 00	140 18	140 18	1,275 00	1,415 18	
	Chatham Row.						
32	Edwd. Kellogg,.....	11,700 00	2,240 55	2,240 55	11,700 00	13,940 55	
33	do	10,800 00	2,250 00	2,250 00	10,800 00	13,050 00	
		\$47,021 00	\$5,704 47	\$5,704 47	\$47,021 00	\$52,725 47	

RECAPITULATION.

Total amount received on sale of lots in New-York,.				\$52,725 47
do	do	at time of sale	do	15,679 00
do	do	on bonds for lots in Delaware		
			county,	3,514 43
do	of bonds now due the State for	do		8,400 18
do	rec'd at time of sale on lots in	do		3,392 50
do	am't of bonds transferred to John Pal-			
	mer and Platt Newcomb, for lots in			
	township 4, Old Military tract,			2,178 77
do	received at time of sale on said lots, ..			718 00
Total,				<u>\$96,608 35</u>

STATE OF NEW-YORK.

No. 87.

IN SENATE,

April 7, 1836.

COMMUNICATION

From the Governor, transmitting the report and resolutions of the General Assembly of the State of Ohio, in relation to domestic slavery.

TO THE SENATE.

Enclosed I transmit to you the proceedings of the Legislature of Ohio, on the subject of domestic slavery.

W. L. MARCY.

Albany, April 6, 1836.

[Senate, No. 87.]

A

REPORT AND RESOLUTIONS

Of the General Assembly of the State of Ohio, on the subject of domestic slavery.

The select committee, to whom were referred the several messages of the Governor, laying before the General Assembly the legislative proceedings of South-Carolina, Georgia, Alabama and Virginia, on the subject of domestic slavery, and also the proceedings of a public meeting of the citizens of Cincinnati, on the same subject,

REPORT:

That they have attentively considered the subject of these several messages, and they have found no difficulty in settling their opinions on the subject itself; but they have been embarrassed with doubt, as to the extent they should advise the declaration of opinions by the State of Ohio. She has been solemnly addressed in her sovereign capacity, "and the confident expectation" announced, that she will legislate on a subject, which the committee believe to be beyond her powers as a State, and to advise upon questions on which she has no constitutional power to decide. Under the compact of the great ordinance of 1787, neither slavery nor involuntary servitude shall ever be permitted in any State formed in the northwestern territory. The Constitution of this State, and the feelings of all our citizens, both accord with that irrevocable provision, and the General Assembly of Ohio can never pass any law on the subject of slavery. And did the committee not feel that entire silence on our part might be considered disrespectful to other States, they would advise that entire silence on this subject should be observed by this General Assembly. It is with the most respectful deference to other States, that the committee suggest, that the high notice taken of the opinions promulgated by certain individuals averse to slavery, tends at once to magnify the importance of their efforts, and to aggravate the evil which the slave-holding States so greatly dread. The efforts of the abolitionists will serve to increase the rigors of slavery; and their publications, if really dangerous, will become more so, by the notoriety given to them. If the slave has capacity to understand these publications, he can equally understand the proceedings of legislatures, which so publicly and repeatedly declare their pernicious tendency; and he will be induced to seek and read them.

The committee agree in believing that the States have no power to restrain the publication of private opinion, on any subject whatever; and that the principle, if admitted, involves much greater evils to the peace of the States, than the toleration of errors

and the excitements they cause, can ever produce. The rule of inter-national law, in which this demand of legislation is founded, is scarcely applicable to the several States of the Union, and relates more properly to another class of cases. The Constitution of the United States has not given to the general government power to regulate questions of property, except incidentally. The subjects of property, and the security of its tenure, are entirely within the reserved powers of the States, and the legislation of any State, on a matter of property, can be altered by itself only. The general government has no such power; and the attempt by any one State, or the people of a State, to interfere with the internal regulations of another, is improper and dangerous. Whatever opinions may be entertained on the existence of slavery, as a political or moral question, the right of property in slaves is recognized by the Constitution of the United States; and if slavery is to be abolished, it must be by the action of the States in which it exists. The people of the slave-holding States do themselves feel the force of the evil entailed upon them, against remonstrance and consent of their ancestors; and when they remonstrate, as they now do, against foreign interference with their domestic institutions, their request should be heard and complied with. The committee report for adoption, the following resolutions:

Resolved, by the General Assembly of the State of Ohio, That the State of Ohio has no power to legislate on the subject of slavery, and she disclaims the assertion of any power to interfere with it in other States.

Resolved, That no law can be passed to impair the freedom of speech, or the freedom of the press, except to provide remedy for the redress of private injury, or the breach of public peace resulting from the abuse of either.

Resolved, That a due regard to justice and the comfort of others, should induce great forbearance in the discussion of subjects which prove disturbing in their nature, or injurious to the peace and quiet of the country.

Resolved, That the Governor be requested to transmit to the Governors of the several States, a copy of the foregoing report and resolutions, that the same may be laid before their respective Legislatures.

WM. MEDILL,

Speaker pro tem of the House of Representatives.

ELIJAH VANCE,

Speaker of the Senate.

March 14, 1836.

STATE OF OHIO.

SECRETARY OF STATE'S OFFICE, }
Columbus, March 26, 1836. }

I certify that the foregoing is a correct copy of the report and resolutions, taken from the original roll remaining on file in this office.

C. B. HARLAN, *Sec. of State.*

STATE OF NEW-YORK.

No. 88.

IN SENATE,

March 7, 1836.

REPORT

Of the committee on manufactures, on the petition for the incorporation of the Poughkeepsie Clock Manufacturing Company.

Mr. Loomis, from the committee on manufactures, to whom was referred the petition of Walter Cunningham and others, praying for the passage of a law creating them and their associates a body politic and corporate, by the name of the "Poughkeepsie Clock Manufacturing Company," for the purpose of manufacturing clocks,

REPORTED:

That the petitioners represent, that "an ingenious citizen of this State has invented and constructed a metallic time-piece or clock, superior in use, and cheaper in cost than those heretofore manufactured: that the inventor has obtained letters patent, securing to him and his assigns the exclusive right of making and vending the said clocks: that the inventor is not possessed of such pecuniary means, as to afford that benefit to the State which it would derive by being seasonably supplied with his clocks, and still less of bringing in vast sums from other states, and probably also from South-America."

They therefore pray to be incorporated for the purpose of manufacturing the said clocks, by the name of the "Poughkeepsie Clock Manufacturing Company," with a capital of sixty thousand dollars, with the privilege of increasing the same, at any time within three years, to one hundred thousand dollars.

Your committee conceive that a question of public policy of much importance is involved in this application, to wit: Whether it be conducive to the public interests, to grant charter privileges for the transaction of business not requiring a large investment of capital, but to prosecute which, individual enterprize, even with limited capital, must be fully adequate.

It has long been the course of policy in this State, to grant charter privileges for manufacturing purposes, whenever, from the hazard to be incurred, or the large amount of capital necessary to be employed, individual enterprize would be inadequate to successful operation. Encouragement by special grants of corporate power, has seemed to be necessary in such cases. And your committee fully believe that this policy is proper, when promotive of such *manifest public good* as to overbalance the evils incident to the creation of corporations for business purposes.

But your committee are not aware that it has been the policy of the State to create corporations for manufacturing or other business purposes, not coming within this rule. It cannot for a moment be supposed that the Legislature would listen to an application for the creation of a corporation for the purpose of manufacturing ploughs, or other agricultural implements, with capital large enough to engross the entire business of such manufacture in the State. The injurious consequences of such monopoly would be apparent to all. And yet ploughs are infinitely more important to the public than the article of clocks; and perhaps nearly the same amount of capital may be necessary to establish and carry on either. There is an additional consideration which should be taken into view in deciding on this application. The patentee of the article is one of the applicants. It will readily be perceived, therefore, if this corporation be created, it may be for his interest, instead of selling rights to others to manufacture, as the public interests require, if his invention be valuable, to refuse to sell such rights, and thus to secure to the corporation, for a period of fourteen years, the exclusive manufacture thereof, and thus prevent the chance of competition. It seems to your committee, that the public good will not be advanced by lending additional facilities, by special legislation, to effect such a purpose.

A wise policy will leave the ordinary pursuits of industry as free and open to equal competition as possible.

Your committee cannot perceive the necessity of special legislation for the purposes proposed in the petition. The manufacture of the article is not one requiring a large outlay of capital. Individual enterprise must be fully adequate. Corporate powers would only tend to create a monopoly of the business. The grant of corporate power is, to some extent, a grant of special privileges—privileges denied to individual citizens and associations of citizens, not thus clothed with corporate power. This is adverse to the genius of our political institutions, and should not be permitted, except from the clearest necessity.

Your committee fully concur in the views of his Excellency the Governor on this subject, in his message to the Legislature at the opening of the present session, as exhibited in the following quotation, viz:

“I have heretofore expressed my decided opinion against the policy of legislating on subjects that needlessly interfere with the ordinary pursuits of our fellow citizens. These pursuits should be left wholly unembarrassed by any regulations whatever, except such as are obviously required to prevent abuses and promote some manifest public good. I recommend that you should entirely abstain from granting charter privileges, to be used in transacting such kinds of business as are prosecuted by individuals, and which can be conducted as well by them as by incorporated companies. The association of capital for such objects, with corporate privileges, subjects individuals engaged in the same or similar pursuits, to an unfair and injurious competition.”

Your committee, in accordance with these views, submit the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted:

IN SENATE,

April 11, 1836.

REPORT

Of the committee on the judiciary of both Houses, on a resolution referred to them, relative to amending so much of the Revised Statutes as relates to powers and trusts.

Mr. L. Beardsley, in behalf of the committee on the judiciary of the two Houses, to which committees a resolution was referred, requesting them to inquire and report, whether any and what amendments ought to be made to such parts of the Revised Statutes as relates to the subject of powers and trusts,"

REPORTED:

That the committee have had the resolution under consideration, and are of opinion that it is inexpedient to attempt at this time to legislate on the subject to which it refers.

The law in relation to powers and trusts, always abstruse and intricate, has been recently revised, and much attention bestowed upon it, both by the revisers and the Legislature. Whether the revision of this branch of the law will be beneficial, remains yet to be seen, and time and experience must determine. But the committee believe they are fully warranted in the conclusion that thus far (and perhaps from the uncertainty of the law and the doubts as to its ultimate construction,) no great benefit has resulted from it.

- The committee suppose that many years will be required to test the law, and so to establish its intent and meaning by judicial decisions, as to render it as well understood as before the revision.

Important adjudications however have been had, and it is understood that the subject is again to be brought before the court for the correction of errors, and that decisions in the causes referred to, may go far in settling the general construction of the statute.

The committee therefore deem it advisable, to leave the law as it is, and to allow the courts to give it a construction, rather than to attempt a general amendment: and they would prefer to repeal the whole chapter, and thus bring the law back to what it was before the revision, than to go on with amendments, until its particular defects shall become apparent.

They therefore ask to be discharged from the further consideration of the resolution.

STATE OF NEW-YORK.

No. 90.

IN SENATE,

April 7, 1836.

THIRTEENTH ANNUAL REPORT

Of the Troy Savings Bank.

TO THE LEGISLATURE OF THE STATE OF NEW-YORK.

Pursuant to the provisions of the act entitled "An act to incorporate the Troy Savings Bank," the board of managers report:

That from the first Monday of April last, to the first Monday of April instant, there has been received from depositors in said Bank, the sum of seventy-three thousand and thirty-six dollars and fifty cents; and that during that time, there has been withdrawn from the said bank by depositors, the sum of forty-eight thousand, seven hundred and fifty-two dollars and thirty-eight cents, including dividends paid. The sum of six hundred and forty-one dollars and forty-eight cents has been paid for contingent expenses of the bank during the past year. That there is now deposited to the credit of the bank, in the Farmers' Bank, the sum of one hundred and sixty-eight thousand, two hundred and six dollars and seventy-eight cents, being the amount received by the Troy Savings Bank since the commencement of the institution, and the interest accrued thereon, after deducting the amount refunded to depositors, the contingent expenses of the bank, and four thousand, two hundred and sixty-three dollars and twenty-one cents invested in real estate. That depositors in said bank have received dividends at the rate of five per cent per annum, and one dividend at the rate of five and one-half per cent per annum. And that there is a balance to the credit of the profit and loss account amounting to eight

[Senate No. 90.]

A

thousand, eight hundred and nine dollars and ninety-seven cents, including the real estate.

All which is respectfully submitted.

R. P. HART, *President*,
J. L. IANE, *Secretary*.

STATE OF NEW-YORK

No. 91.

IN SENATE,

April 19, 1836.

COMMUNICATION

From the Commissioners of the Land-Office, in relation to the Freemasons' Patent.

TO THE LEGISLATURE.

The Commissioners of the Land-Office, by the first section of an act passed the 11th May, 1835, chapter 284 of the laws of 1835, were "authorized to ascertain, by competent proofs, whether Nathan Bumpus and others, who were occupants of lots 64 and 28 in the Freemasons' patent, in the county of Herkimer, under an alleged title from Henry Platner, did obtain a valid release of the premises by them respectively possessed, from a mortgage thereon, given by John Weatherhead previously to the purchase of said mortgage by the people of this State.

By the second section of the same act, they were further authorized to ascertain, in case the release should be established, for whose benefit it enured, together with other information specified in that section, "and to report these facts to the Legislature at its next session."

The Commissioners were also authorized, to ascertain and report to the Legislature, whether any, and, if any, what compensation is due to the legal representatives and heirs of Samuel Merry, jr., deceased, for the discovery by the said Samuel, in his lifetime, of the said lots, &c.

In pursuance of the requirements contained in the act above quoted, the Commissioners appointed a day, at the instance of the
[Senate No. 91.] A

parties concerned, and received the proofs offered by them. The record of their proceedings is herewith annexed, and marked A. Although the hearing did not result in showing that a valid release from the operation of the Weatherhead mortgage had been given to the occupants of lots No. 28 and 64 in the Freemasons' patent; and although the Commissioners conceived that they had nothing further to do in the way of examination, when the claimants had failed to establish the fact that such a release had been obtained by them; they deem it their duty, nevertheless, to render to the Legislature a statement of their proceedings.

Various claims growing out of the same transactions have been before the Legislature from time to time, and have been the subject of repeated reports from the officers of the government, and of legislative committees. But the history of these transactions runs through so extensive a period of time, and so great a number of documents, that the Commissioners consider it essential to a correct comprehension of the case, to embody in this communication the principal facts connected with them. Such a course is more particularly necessary at this time, as a new class of claims, founded upon the transactions referred to, has recently been presented to the Legislature, and referred to the Commissioners of the Land-Office, by a resolution of the Senate.

On the 12th June, 1771, letters patent were granted to Wm. Bayard and fifty-four others, for fifty thousand acres of land, which tract was originally called Bayard's patent, subsequently the Oneida purchase, and more recently the Freemasons' patent. The patent is on record in volume No. 15 of patents, in the office of the Secretary of State, page 518.

On the 19th of October, 1771, Allan McDougall and William Kane, two of the patentees, conveyed by deed in fee to John Weatherhead their interest in the land, amounting to two fifty-fifth parts of the whole grant. Of this deed no record can now be found in the office of the Secretary of State, or in the county clerks' offices of Albany or Montgomery counties, all of which have been searched; but the deed was twice exhibited on trial in courts of law, as will be seen by reference to the Assembly Journal of 1826, page 512, and to volume 10 of Johnson's Reports, page 414. In the latter case, it is possible that it may have been admitted by the defendant without being proved. In the former case, Judge

Radcliff, before whom one of the suits referred to was tried, states, that "the acknowledgment of this deed was objected to as insufficient to entitle it to be read in evidence, but it was admitted."

There is on file in the Secretary's office, in volume No. 36, Assembly papers, a brief by Stephen Lush, Esq. of Albany, made, as is supposed from an erased date, in the year 1805, for the purpose of asserting the claim of John Thurman under the mortgage by Weatherhead. In this brief, the deed is referred to as follows: "On the 19 Oct., 1771, William Kane and Allan McDougall, execute a release of their rights to John Weatherhead—see the deed—acknowledged and recorded." The Commissioners infer that the deed was in Mr. Lush's hands at the time, and that it was recorded as well as acknowledged. If so, it was, doubtless, recorded in the county of Herkimer, and the record of it lost by the destruction of the clerk's office in that county by fire.

On the 2d March, 1773, Weatherhead executed a mortgage of the premises conveyed to him by McDougall and Kane to Thomas Wormald and others, payable in August of the same year. This mortgage was subsequently assigned to John Thurman, and was registered in the year 1787, Assembly Journal of 1826, page 513. In the original petition of Joseph Bond and others, presented to the Senate in 1802, and now in the hands of the Commissioners, this mortgage is referred to as being on record in the county of Montgomery. A copy of this petition is herewith annexed, and marked B.

By an act passed the 22d Oct. 1779, chapter 25 of the laws of that year, John Weatherhead was declared to be attainted of the offence of adhering to the king of Great Britain during the war of the revolution, and his estate, both real and personal, forfeited to the people of the State.

By an act passed 11th April, 1787, chapter 78 of the laws of that year, Evert Bancker, John Ramsay and Thomas Randall were appointed commissioners to make partition of the Oneida purchase, as it was at that time denominated. The duty was performed on the 17th July, 1787. Lots No. 28 and 64 fell to the share of Allan McDougall, and No. 5 and 98 to William Kane. The proceedings of the commissioners are recorded in Field-book No. 29, in the office of the Secretary of State.

About the year 1790, Nathan Underwood and others were engaged in a negotiation with one Eli Brown, for the purchase of lot No. 64, of one Norman Williams, and entered into possession of the lot. It has been repeatedly alleged by the occupants of this lot, that they purchased it of Brown and paid him one dollar per acre; and the circumstance has been urged as a ground of indulgence on the part of the state. For the history of this transaction, by Brown himself, see the annexed paper marked K, by which it appears, that the amount advanced by Underwood and others to make the purchase was refunded. The original affidavit of Brown, is on file, among the Assembly papers of 1834. In a short time after taking possession of the lot, the occupants became suspicious of the title of Williams, and having, as they supposed, traced the title to Henry Platner, of Columbia county, who claimed to hold by virtue of a deed from Allan McDougall, (one of the patentees,) dated the 8th Sept. 1776, they purchased the lot of him at \$4 per acre, in the year 1794 or 1795. About the same time, lot No. 28 was also purchased of him at the same price. The deed from McDougall to Platner has uniformly been considered, until a very recent day, either as forged, or as having been executed by some other person than the original patentee. It is possible that it may have been genuine. It is said to have been dated in September, 1776, after the commencement of hostilities between Great Britain and her American colonies. Weatherhead adhered to the British, and if the deed to Platner was actually given by McDougall, the latter may have considered his previous conveyance as not likely to reappear and be enforced against a subsequent purchaser. In the unsettled condition of the country, at that time, similar frauds were not unusual, and they were frequently successful. Indeed, it appears by 10th Johnson's Reports, page 415, that Wm. Kane, who united with McDougall in 1771, in conveying his interest in the premises to Weatherhead, leased lot No. 5 to one Daniel Rindge, in 1795, and that he also leased lot No. 98 to one A. Case; but on being shewn in 1800, his conveyance to Weatherhead in 1771, he assigned the leases of both lots to John Thurman, to whom the Weatherhead mortgage had been assigned. This was an acknowledgment by Kane of the genuineness of the conveyance to Weatherhead, to which McDougall was a party, and is of itself sufficient to remove all doubt in relation to it. In the Assembly Journal of 1818, page 272, the committee who investigated the subject, asserted the fact as unquestionable, that Platner had no title to the land; and no reason

is perceived, why the position then assumed should be called in question now.

About the year 1800, actions of ejectment were brought against the occupants of lots No. 28 and 64, under the mortgage of Weatherhead, in the name of Wormald and others, who, on the 19th March, 1803, assigned the mortgage to John Thurman, 10 Johnson's Reports, p. 414. The leases of lots No. 5 and 98, (Kane's part,) were surrendered to Thurman, as has already been seen. At the Herkimer circuit in September, 1803, one of the suits (the one brought against Joseph Bond,) was tried, under a stipulation that the others should abide the event of the trial; and a verdict for the defendant was rendered, upon the ground, as is stated by the presiding judge, (Assembly Journal, 1826, page 513,) that the mortgage must be presumed to be paid, and that no proof to counteract the presumption was offered by the plaintiff. The day after the trial, the occupants, notwithstanding the verdict in favor of Bond, compromised with Thurman for a discontinuance of the suits, relinquished their own costs, paid him \$50 in each suit, amounting to \$800, the suits being sixteen in number, and received an agreement, signed by him and his attorney, to refund the amount in case he (Thurman) or any one claiming under him, should renew the attempt to eject them. That this agreement was not designed as a release of the rights of Thurman, is manifest from its terms, as well as from the representations of the parties concerned, until a late day. A copy of the agreement is annexed and marked C. The original is on file in the office of the Secretary of State, in volume No. 10 of Assembly papers. A copy of the petition of the occupants of lot No. 28 in 1818, also on file in the same volume, is annexed and marked D. This petition sets forth the understanding with which the agreement was given by Thurman, and admits his right to renew his claim on refunding the money paid to him. It also admits the title of Weatherhead, and states, what was believed at that time, (1818,) that the deed from McDougall to Platner was a forgery, or given by a different person of the same name as the patentee. Moreover, it appears by a report of the Surveyor-General, Assembly Documents, 1826, page 512, that Thurman had neither parted with his rights nor designed to abandon them. On the contrary, the proceedings of the public officers in asserting the rights of the State were delayed, in consequence of the assurance from his attorney, that "another suit would be brought, in which he was confident that he would

repel the presumption that the mortgage on which the suit was founded had been paid."

By reference to the books in the Comptroller's office, it appears that several deeds were given on lot No. 5, (Kane's part,) in January and February, 1805, and that no others were given for several years afterwards. This is the year in which Mr. Lush, who was for several years the counsel of Mr. Thurman, prepared a brief of the claim, as above stated, with a view to a new trial; and it was probably from him that the information alluded to by the Surveyor-General, as having suspended further proceedings in selling the land, was derived. (See also, Senate Journal, 1817, page 73, and the preamble to chap. 246, of the laws of that year.)

In the year 1802, and before the suits brought by Thurman were disposed of, a petition was presented to the Legislature (Senate Journal, page 66,) by Joseph Bond and others, and referred to the Attorney-General and Surveyor-General, who subsequently reported thereon. (See page 103.) The original petition is among the files of the Senate. A copy is annexed and marked B. A petition was presented to the Senate by the same persons in 1805, (Senate Journal, page 35,) and referred to the same officers, but it does not appear that any report was made. In neither case has a report upon the petition been found among the papers of the Senate or in the Journals. The petition in 1805 is also missing from the files of the Senate. But the Commissioners have found in the Surveyor-General's office, and annex hereto, a draught of a report on the petition of Joseph Bond and others, marked E. Although there is no date to this paper, a memorandum was found enclosed in it, showing the calculations of interest on the mortgage to 1802, and the draught is in the hand-writing of Ambrose Spencer, who was Attorney-General in that year. This is doubtless a copy of the report mentioned in the Assembly Journal of 1818, page 272, and in the Assembly Journal of 1826, page 514, as missing.

After the Bond trial, Samuel Merry junior, filed in the Surveyor-General's office, on the 30th December, 1803, a discovery of the lands in the Freemasons' Patent, supposed to be forfeited by the attainder of Weatherhead, and claimed the benefit of the act of 31st March, 1802; chapter 82 of the laws of that year, which secured to any person discovering and disclosing to the Surveyor-General of the State any forfeited estate, and delivering to him the title deeds and maps necessary to establish the right of the people of

the State to such property, twenty-five per cent of the money for which it should be sold, or one-fourth part of the land, if the person discovering should elect, in case it had remained vacant and unoccupied. The evidence produced to the Attorney-General in this case was satisfactory, and the title to the property was duly certified by him as being vested in the people of the State. A copy of the certificate, taken from a copy on file in the office of the Secretary of State, Assembly papers, Book No. 36, is herewith annexed and marked F. The Surveyor-General immediately proceeded, under the provisions of the 2d section of the act of 1802, to cause the property to be appraised. The appraisal was made in June, 1804, by Evans Wharry and John Meyer, and will be found, together with the maps, &c. in Field Book No. 3, in the office of the Surveyor-General. Deeds were given in 1805, as already stated, to some of the occupants; but in consequence of the information received from Thurman's attorney, further proceedings were suspended. Although a thorough examination has been made, none of the papers filed by Merry in relation to these lands, can be found in their proper place among the files of the Surveyor-General's office. They have, doubtless, been taken away for the purpose of examination during the progress of the transactions concerning these lots—now about forty years in duration—and are in all probability destroyed or lost.

It may not be improper to say in this place, that the claim of Merry to a portion of the amount for which the lands were sold, was considered virtually disposed of as early as the year 1814, the premises being subject to a subsisting incumbrance nearly equal to that amount, which the State was compelled to discharge. See opinion of the Attorney-General, Assembly Documents, 1826, page 512. See also Book K. folio 433, of bonds for lands and loans in the Comptroller's office.

These lands were originally registered as subject to the payment of one-fourth to Merry; but the record was, for obvious reasons, corrected, when the State found itself compelled to discharge existing incumbrances in order to perfect its title.

As early as the year 1810, an action of ejectment was brought by the Attorney-General, at the instance of the occupants of some of the lots, for the purpose of determining the rights of the State and of the heirs of John Thurman. The Assembly Journal of 1814, page 54, shows that the suit was brought by Mr. Hildreth, who

was Attorney-General at that time; and an original letter in the hands of the Commissioners, from Daniel Avery, one of the occupants, to the Attorney-General in 1813, fixes the commencement of the suit three years before. The suit was brought to trial at the Oneida circuit in June, 1813, and a verdict was taken for the plaintiff by consent, subject to the opinion of the supreme court upon a case made, in which the title of the State and that of Thurman, as assignee of the Weatherhead mortgage, were detailed. A report of the case will be found in the 10th Johnson's Reports, page 414. By the judgment of the court, the validity of the mortgage, as a subsisting incumbrance on one of the lots covered by it, was settled; and thus the verdict obtained in 1803, by which the mortgage was presumed to be paid, was virtually set aside. The suits in the two cases were, however, brought against the occupants of different lots. In 1803, the suits disposed of by the Bond trial, were brought against the occupants of lots No. 28 and 64; whereas the suit determined in 1813, was against an occupant of lot No. 5, one of the two lots which fell to the share of Kane. The only difference in the two cases was, that lot No. 64 was settled about the year 1790, and lot No. 28 somewhat later; while lot No. 5 remained unoccupied until the year 1795. Although this fact is not deemed material, it is proper to state it, inasmuch as one of the circumstances which the court considered as repelling the presumption arising from the lapse of time that the mortgage had been paid, was that "the premises were uncultivated lands and a forest until the year 1795." Lapse of time raises a technical presumption of payment, which may be repelled; and no reason is perceived why the grounds on which the judgment of the court was founded in the case reported, would not have been equally tenable, if the suit had been brought against the occupants of lots 28 and 64.

So decisive was the judgment of the court in this case deemed with respect to all the lots covered by the mortgage, that an act was passed on the 15th of April, 1814, chapter 202 of the laws of that year, providing for paying to the legal representatives of John Thurman, then deceased, the principal and interest remaining due on it, amounting, together with the amount of a judgment in favor of Thurman against Weatherhead, authorized to be discharged by an act passed the 5th of April, 1813, chapter 127 of the laws of that year, to the sum of \$12,177.69. Of this sum, \$6,613.06 was paid in cash, and the balance, (\$5,564.63) was credited to Thur-

man on account of quit-rents due from him to the State, and the lands to which they were attached, were discharged from them. The amount actually paid on account of the mortgage, was \$8,124.95, principal and interest, and \$694.33 costs and rents, recovered of the occupants by Thurman, and repaid to them by the State, amounting in all to \$8,819.28. The details of the settlement with Thurman, will be found in the annexed paper, marked G. which was furnished by the Comptroller to the committee of the Assembly, who investigated this subject in the year 1818. The original paper is on file in volume No. 36, of Assembly papers in the office of the Secretary of State.

On the 15th April, 1817, an act was passed, Chap. 245 of the Laws of that year, authorizing the Surveyor-General to convey to the occupants, reported by the appraisers in 1804, or the heirs or assigns of such occupants, so much of the lands as were occupied by them at the time of the appraisement, on the condition that they should pay one-sixth of the consideration for the land within nine months, and execute to the people of the State a mortgage for the residue, payable in eight years, with interest at six per cent, the consideration for the lands to be the sum at which they were valued in 1804, with the addition of the interest thereon at six per cent per annum from the 26th March, 1805.

This act was passed in pursuance of a communication from the Surveyor-General. See Senate Journal, 1817, page 73; see also preamble to the act for a recital of the circumstances under which the relief sought for was granted.

On the 27th December, 1817, subdivision No. 1 of lot 64, occupied in 1804 by Joseph Bond; No. 3, occupied by Nathan Underwood; No. 4, occupied by John Underwood, and No. 5, occupied by Thomas Canfield, were sold to Abraham Varick, by the Surveyor-General. This sale was made previous to the expiration of the nine months allowed to the occupants to comply with the provisions of the act of 15th April of that year, on the production of deeds from the sheriff of the county of Herkimer to Mr. Varick, showing to the satisfaction of the Attorney-General, (Mr. Van Buren,) who gave a certificate to that effect, that Mr. Varick was the owner of all the interest of Joseph Bond, Nathan Underwood, John Underwood, Thomas Canfield, Moses Walker and Ebenezer Conant, embracing the whole of subdivisions No. 1, 3, 4, 5, 8 and

[Senate, No. 91.] B

9, of lot No. 64. These deeds, together with the Attorney-General's certificate, are on file in the office of the Surveyor-General, in a bundle of papers marked "Forfeited lands, Freemason's patent." Subdivisions 8 and 9 of lot No. 64 were sold to Lewis B. Rider, on the 27th December, 1817, pursuant to an assignment to him of Mr. Varick's interest. This assignment is also on file in the same bundle of papers.

On the 3d April, 1818, an act was passed, Chap. 32 of the Laws of that year, virtually extending to the occupants of lot No. 28, the benefits extended by the act of April 15, 1817, to the occupants of lot No. 64, with the additional indulgence of a remission of the interest on the sum at which the land was appraised in 1804, from the 26th March, 1805, to the day of the passage of the act; so that the consideration which they were required to pay was the amount of the appraisement, one-sixth to be paid within nine months, with interest at six per cent on the remaining five-sixths from the 3d April, 1818. This provision was made in pursuance of the application of the occupants at the commencement of the session of the Legislature, as will appear by a petition already referred to, a copy of which is annexed and marked D. The whole matter was thoroughly investigated, and all the facts, together with the annexed statement of the Comptroller, marked G, were before the committee of the House, of which Mr. Hackley was chairman, and the measure of relief proposed by the committee, and provided by the act of 3d April, was deemed all that justice and equity demanded. The report of the Attorney-General, page 101, and the report of the committee, page 271, Assembly Documents of 1818, recite the material facts of the case.

Lot No. 28, under this act, was disposed of as follows:

Zadok Rider,	Sub. No. 1,	130 acres, at \$6.50,....	\$845 00
Saml. Rider, west part,	" 2,	40 $\frac{1}{2}$ acres, at \$7,.....	286 55
Peleg Brown, east part,	" 2,	} 86 $\frac{1}{2}$ acres, at \$7, ..	607 11
do	Sub. " 6,		
do	" "	3, 58 acres, at \$6.50,.....	325 00
Rowland Stiles,	" "	4, 68 ac. 3 roods, 16 perch-	
		es, at \$4,	355 40
Anthony Rhodes,	" "	5, 80 acres, at \$7,.....	563 50
			<hr/>
			\$2,982 56
			<hr/>

The conveyances were all made in 1818, with the exception of Sub. No. 3, which was conveyed on the 3d January, 1819, precisely nine months after the passing of the act.

On the 19th February, 1819, an act was passed, Chap. 22 of the Laws of that year, extending to the occupants of lot No. 64, the additional indulgence secured by the act of 3d April, 1818, to the occupants of lot No. 28. Abraham Varick and Lewis B. Rider, who had taken deeds as before mentioned, for parts of the lot, became entitled to a deduction of interest on the amount of the appraisement in 1804, from the 26th March, 1805, to the 3d April, 1818, which had been included in the consideration to be paid by them when the conveyances were made. The act of 1819 was passed in pursuance of the report of the Surveyor-General, on the petition of Nathan Underwood and others, Senate Journal of that year, page 57.

Lot No. 64 was therefore finally disposed of as follows:

Abraham Varick, Sub. No. 1,	3,	275 acs. 1 rood, 2 perch- es, at \$7, per acre,..	\$1,927 69
do	"		
do	"		
do	"		
John Washburn,	"	2, 66 $\frac{1}{4}$ acres,	at \$6.50,.. 430 25
John Doolittle,	"	6, 17 acres, 4 perches	at \$7, 119 17
Thomas Gage,	"	7, 48 $\frac{1}{2}$ acres,	at \$7, 339 50
Lewis B. Rider,	"	8 and 9, 67 acres, 38 perch-	es, at \$6.50,.... 437 04
			<hr/> \$3,253 65 <hr/>

Sub. No. 10, containing ten acres of swampy land, still remains unsold.

All the conveyances were made under the act of 1819, excepting the one to Thomas Gage, who failed to comply with the conditions prescribed within the time limited, and was relieved by an act passed the 28th January, 1820, Chap. 22 of the Laws of that year. Copies of all the deeds are on file in the Surveyor-General's office, in the bundle of papers marked "Forfeited lands, Freeman's patent."

In the year 1823, petitions were presented to the Senate and Assembly by the occupants of lot No. 64. The petition to the

Assembly which was presented on the 7th February, Assembly Journal, page 380, prayed for an extension of the time allowed the occupants "for the payment of the purchase money due on their lots," and was referred to the committee of grievances; but it does not appear that the committee made any report. Twenty days afterwards, see Senate Journal of 1823, page 138, a petition was presented to the Senate by the occupants of the same lot, "praying for a remission of interest due the State." The petition was referred to a select committee, whose report in favor of the relief asked for will be found in the same Journal, page 157; but the bill reported by the committee did not become a law. On examination of the files of the Senate and Assembly for that year, neither petition can be found.

In the year 1824, the occupants of lot No. 64 again petitioned the Legislature, Senate Journal, page 111, "for a remission of interest due the State." The petition was referred to the committee on claims, whose report will be found on page 127 of the same Journal. The committee state that they "have examined all the records and papers relative to the purchase and sale of said land," and that they are satisfied "that the petitioners are not entitled to relief;" and it appears by the journals that the petitioners had leave to withdraw their petition.

In the year 1826, the occupants of lot No. 64 presented a petition to the Legislature praying for relief. The petition is not among the Assembly papers, but by the report of the Surveyor-General, page 511, Assembly Journal, it appears that a remission of "the interest accrued on their obligations" was the extent of the relief sought for. The report of the committee of claims in favor of the prayer of the petition will be found on page 560 of the same Journal, but no provision by law was made for securing to the claimants the required relief.

In the year 1829, the same persons again petitioned for a remission of the interest due to the State, Assembly Journal, page 299. The petition was referred to the committee on claims, who reported by bill, page 328. It appears by reference to page 366, that the Surveyor-General was called on for a report with regard to the equity of the claim, but no further reference to the subject is found in the Journal, until the bill passed the Assembly, page 846.

On the ensuing day, the 26th March, the bill was sent to the Senate, Senate Journal, page 363, and referred to the committee on claims; but no report was made in relation to it, nor does it appear again on the Journal until 32 days afterwards, the 26th April, when a petition was presented from Nathan Underwood and others, praying for a release of interest on lot No. 64, and was referred to the Commissioners of the Land-Office, page 531. No report was made, nor does it appear by the Journal that any further action was had in relation to it.

In the year 1830, a petition was presented to the Legislature by Nathan Underwood, Senate Journal, page 214, and in the Legislative Documents, No. 395, will be found a report from the committee on claims, to which the petition appears by that report to have been referred, although by the Journal it would appear to have been referred to the committee on finance. A bill was introduced by the committee, and was passed on the 19th of April, 1830, Chap. 264 of the Laws of that year, allowing him \$1,197, with interest from the 27th December, 1817. Under this act he received \$2,081.38.

By the report of the committee, the claim of Mr. Underwood for relief was placed upon two grounds:

1st. That the defendants in the suits brought in 1803, by John Thurman, paid him \$1 per acre for the land; that "it was agreed and understood that the mortgage was to enure to the benefit of those who paid the money;" that the mortgage was in effect discharged by the payment to Thurman, and that the State by purchasing it at a subsequent day, thwarted that understanding.

2d. That the lands "were appraised entirely too high, and that the appraisement included the increased value of the lands from the improvements made by the petitioners."

The evidence on which the committee relied with respect to the first ground consisted of the representations of the petitioner, and the affidavit of Mr. Ebenezer Cowles, the same person whose testimony was taken by the Commissioners in June, 1835, and will be found in the annexed paper, marked A. Mr. Cowles swore on his examination before the Commissioners that he never saw the paper, and that he did not know what it contained, except from what he heard. Yet in his affidavit, according to the report of

the committee, he swore expressly that it was agreed and understood that the mortgage was to enure to the benefit of those who paid the money. The annexed paper, marked C, shows not only that there was no such agreement, but that the right of re-asserting his claim under it was expressly reserved by Mr. Thurman. Mr. Cowles' connexion with another branch of these transactions will be seen hereafter.

With regard to the petitioner, it is hardly possible that he did not know his representations before the committee to be untrue. He was a party in interest. He was personally connected with all the transactions with Thurman and the State from the year 1800 to 1817; he had, in a petition to the Legislature in 1819, stated that the suits brought by Thurman against the occupants of lot 64, in 1800, and disposed of in 1803, were discontinued on the defendants paying "the plaintiff's costs, the same being \$350, to be refunded, if the claims should be renewed." This petition is among the files of the Assembly.

This account of the nature of the agreement with Thurman runs through all the petitions of the occupants of these lands, and the public documents until 1826; nor was the pretence, that the defendants in those suits obtained a release of the interest of the plaintiff in the mortgage, set up until that year, when the petitioners represented to the Surveyor-General that they had quieted their titles by making considerable advances to Thurman. In the same year, it was also represented for the first time, that the petitioners had paid Thurman "one dollar per acre," to quiet his claim, whereas the sums paid were for costs of suit to the time of discontinuance.

The second ground on which the claim of Underwood was placed, is believed to be equally untenable. Affidavits were produced by him to show that the land was appraised too high, that it was worth, exclusive of improvements, but three dollars and a half per acre, and it was made a matter of complaint by him, that the appraisal included the value of his improvements. This was also a new pretence, and must have been known to be unfounded. The act of 1802 required the appraisal to be made exclusive of improvements. It was made in 1804, and doubtless as the law prescribed. Mr. Hackley's report in 1818, Assembly Journal, p. 272, expressly states, that the appraisal was exclusive of improvements. That the appraisal was not too high, is manifest

from the following facts. 1st. Eighty-four acres of lot No. 64, which were appraised and sold by the State in 1819 for \$477, had been sold in 1816 for \$1,824. 2d. Eighty-eight acres of lot No. 28, which were appraised and sold by the State in 1818 for \$355 40, were sold in 1811 for \$1,400. The conveyances showing the two transactions last referred to are in the Surveyor-General's office. 3d. Sub. No. 6 of lot 28, which was sold by the State in the year 1818 for \$7 per acre, the amount of the appraisement, was sold in 1817 by Nathan Bumpus to Peleg Brown, for about \$22 per acre. There is a memorandum in the Surveyor-General's office, made in 1802, stating that the lands were considered by Judge Sanger to be worth, exclusive of improvements, five dollars per acre, "at a very moderate calculation."

There is also an affidavit, a copy of which is annexed and marked L, of Jeremiah Kinne, one of the occupants of lot No. 98, (Kane's part,) who accompanied the appraisers, and who swears that the improvements were not included in the appraisement. The original is on file among the files of the Assembly for the year 1834.

In addition to these facts, it is to be considered that the lands were all occupied at the time of the appraisement. The appraised value was a matter of notoriety to the occupants. Several conveyances were immediately made on Kane's part, and the complaint that the appraisement was too high, or that it included the value of the improvements, was not heard until more than twenty years afterwards.

But independently of these considerations, the application for relief was founded upon no ground of equity whatever. The sum allowed him, (\$2,081.38) was for his improvements at \$3.50 per acre, and interest for thirteen years: Whereas, it appears, 1st. That the value of these improvements was not included in the appraisement; 2d. That the appraisement was not too high; 3d. That the premises, as will be hereafter shown, were mortgaged to the State of Connecticut to nearly their full value for money loaned, which he never paid; and 4th, that his whole interest in the lot was sold, under an execution, to Mr. Varick, before the latter purchased of the State. The Commissioners consider the allowance a mere gratuity, unworthily bestowed, and procured by setting up false pretences.

By the affidavit of Fortune C. White, on file in the office of the clerk in chancery for the fifth circuit, on an application growing out of certain transactions with the State of Connecticut, which will be hereafter referred to, it appears that Nathan Underwood, in the year 1833, after having received this gratuity of more than \$2,000, was engaged in a negotiation to regain possession of the lands, on account of which his claim to relief was made; and that he expressed a willingness "to render all the facilities in his power for the purpose of breaking down the New-York title." It also appears, that Mr. Underwood was to pay Mr. White \$150 for services rendered as counsel to the State of Connecticut, in pursuance of an agreement made in the year 1826; and that this sum was actually paid by the note of Mr. Ebenezer Cowles, Mr. Underwood's witness on several occasions.

In the year 1834, a petition was presented to the Legislature, (Assembly Journal, page 107) by "Anthony Rhodes and others, praying for remuneration for certain improvements on lots No. 28 and 64, in the county of Herkimer," and referred to the committee on claims. At a subsequent day the committee were discharged from the further consideration of the application, and it was referred to the Commissioners of the Land-Office, whose report, consisting of little more than a reference to former documents, will be found in the Assembly Documents of 1834, No. 199. On the presentation of this report, it was referred to a select committee, whose report will be found in the Assembly Documents, No. 302. A bill was introduced at the same time, making provision for the required relief. It appears by the Assembly Journal, pages 666, 702, 756 and 769, that sundry letters, affidavits and remonstrances in relation to the claim were presented, and that the petitioners had leave, page 1,040, to withdraw their petition and the papers accompanying it.

The grounds on which the committee, in 1834, recommended that the relief asked for should be given, were, 1st. That after the trial in 1803, the occupants of the lots compromised with Thurman, by paying him one dollar per acre for the land, and took from him written discharges or quit-claim deeds for said lots, which "discharges or quit-claim deeds," as was alleged, were "lost or destroyed," and that by the payment so made, and the releases or deeds so given, the mortgage was discharged, so far as related to lots 28 and 64; "and that the State had no right, either in law or

equity, to coerce the payment, in whole or in part, from the occupants or owners of said lots." 2d. That the appraisers, in 1804, "took into consideration and included in their estimate the increased value of the premises in consequence of the improvements which had been put thereon by the petitioners," which fact the committee state, was made to appear to their satisfaction "by the affidavits of several respectable persons, who were knowing to the transaction."

As has already been seen, the pretences that Thurman had been paid one dollar per acre for the land by the occupants; that he gave them a release of his interest in the mortgage, and that the appraisers included in their appraisal the value of the improvements made by the occupants of the lots, are all of recent origin, and that they have no foundation in fact. In the year 1834, indeed, a new pretence was set up, that Thurman gave "written discharges or quit-claim deeds," which were "lost or destroyed." In recommending the relief asked for, the committee relied on the representations of the petitioners and the affidavits presented by them in respect to the grounds on which an allowance was considered due; and it is worthy of consideration, that the application to the Legislature in 1834, (the original of which has been obtained from the files of the Assembly) was signed by Nathan Underwood, "for himself," as well as for others, when but four years previously, he had succeeded in obtaining from the treasury, by false representations, more than \$2,000, to which he had no claim whatever in law or equity. That there was a prevalent opinion in Litchfield, the residence of the claimants, that the State was in danger of being deceived by false representations, will be seen by the annexed copy, marked H. of a letter from a highly respectable source in Herkimer county, which was received by the Commissioners subsequently to the examination, in June, 1835, under the act of that year.

The Commissioners have entered, in detail, into the history of these transactions, for the purpose of showing in what manner a claim against the State may gain strength, as its origin is remote, and the evidence in respect to it becomes so obscure that the truth can be only ascertained by the most careful and laborious investigation; how dangerous it is to allow ancient documents to be discredited by the casual recollections of individuals, brought

[Senate, No. 91.]

C

forward ex parte by interested and sometimes unscrupulous claimants.

In the year 1835, petitions were presented to the Legislature, Assembly Journal, pages 90 and 124, and were referred to the committee on claims; and subsequently, pages 105 and 149, to the committee on grievances. The report of the latter committee will be found in the Assembly Documents, No. 137; a bill was introduced, which became a law, chapter 284, of the laws of 1835; and the result of the hearing and proofs before the Commissioners is given in the paper first referred to in this communication, and marked A.

In asking for relief, the claimants relied on showing by competent proofs that Thurman gave the occupants of lots No. 28 and 64 a valid release of his interest in the Weatherhead mortgage, previously to the purchase of the mortgage by the people of the State. It is alleged in the petition, which is signed by Anthony Rhodes, Peleg Brown, Charles P. Rider, Roland Stiles, Samuel Rider and Nathan Underwood, that they paid Thurman after the Bond trial "about a thousand dollars and took from him an acquittance to the occupants of said lots in full, as far as related to said mortgage on said two lots, 28 and 64." This story turns out to be a fabrication which would never have been invented, if it had not been supposed that the agreement signed by Thurman, was lost. The fortunate discovery of the original paper signed by him and his attorney, in 1803, after the trial of his suit against Bond, (annexed paper marked C,) shows that the pretence was wholly unfounded, and that Thurman stipulated only to discontinue the suits, which had not been tried, on the payment of the costs of those suits so far as they had progressed, and to refund the amount so paid to him, in case he should commence any suit to recover possession or title to the lands.

The Commissioners will now proceed to show in as brief a detail as practicable, how far the State is obnoxious to the imputations, which have been repeatedly cast upon it, of neglecting the application of the occupants of these lands, of subjecting them by a tardy assertion of its rights to great cost, and to the discharge of other obligations, and of withholding from them the justice to which they are entitled.

The fact is believed to be indisputable, that no application was made to the Legislature by the occupants to assert the rights of the State until the year 1802, two years after the suits by Thurman had been commenced. It was alleged by the claimants some years afterwards, that the first application was made in 1798, but there is no memorandum of it on the Journals of the Legislature or in any public document or record. Indeed in the year 1818, when it was deemed important to establish the fact, John Underwood, a party in interest, ventured only to swear (see his affidavit on file in volume 36 of the Assembly papers in the office of the Secretary of State,) that the application was made "some where about the year 1800." That the petition presented to the Legislature in 1802, (a copy of which is annexed and marked C,) was the first application ever made, the Commissioners cannot doubt. The prayer of the petitioners was that the State would ascertain what estate the people had in the lands, and allow them (the petitioners) the right of pre-emption, and such other relief as might be thought proper. They did not ask the State to interfere with the suits brought by Thurman which were then pending; and the Attorney-General and Surveyor-General, having examined the subject, on a reference of the petition by the Legislature, reported the mortgage to be outstanding, and recommended that the State should sell the land subject to it. One of the suits having been decided, in opposition to the opinion of the Attorney-General and Surveyor-General, against the mortgage, upon the ground of presumption of payment, and a discovery having immediately afterwards been filed (30 December, 1803,) by Merry, the Surveyor-General caused the lands to be appraised and surveyed as required by law, and made conveyances to some of the occupants. The survey and appraisement were completed in June, 1804, within six months after the discovery was filed, and the Surveyor-General would have proceeded to convey all the land, but for the information received from the attorney of Thurman in 1805, that new suits would be commenced with a view to establish the validity of the mortgage as a subsisting incumbrance, by repelling the legal presumption that it had been paid. The Attorney-General did not doubt that they would succeed; and for this reason it was deemed advisable to delay further proceedings. Mr. Thurman died in the year 1809, see 6 Johnson's Reports, p. 322, and whether the delay from 1805 to that time, was owing to an attempt to settle this matter by negotiation with the State, the Commissioners are not advised; but it appears that as early as the year 1810, the

year next succeeding his decease, a suit was commenced by the Attorney-General, (Mr. Hildreth,) against the occupants of lot No. 5, which was covered by the mortgage, for the purpose of determining the rights of the State. The suit was brought at the instance of some of the occupants for the purpose of quieting their titles, and having resulted in establishing the validity of the mortgage in the year 1813, the State by a law passed at the ensuing session of the Legislature in 1814, authorized it to be discharged. By this arrangement, the rights of the occupants were in nowise prejudiced. They were not required to pay any thing more on account of it. They paid to the State the value of the land, in a state of nature, and they could not have expected to pay less under any circumstances.

Nor were the occupants prejudiced by the delay. They continued in possession of the land, and enjoyed the usufruct until the years 1818 and 1819, when they took conveyances from the State. On every principle of justice and equity, they might have been required to pay the interest on the amount of the appraisement, from 1804 until the time when the purchase money was paid. But by the acts of 1818 and 1819, the entire interest was remitted to the 3d April, 1818, so that they were allowed to remain in the enjoyment of the land for more than thirteen years without paying to the State a single dollar for the use of it. Lots 28 and 64 sold for \$6,236.21. The interest on that sum at six per cent for thirteen years, is \$4,877.24, and this is in fact the amount which the State has given up to the occupants in consideration of the hardship of which they have from time to time complained. This hardship consists principally in having been compelled to pay twice for the land. For this the State is not responsible. They had the misfortune to purchase of Platner, who had no title; but no reason is perceived why the State should make them compensation for this misfortune. Cases of this kind are frequent; but it is never expected that the real owner will indemnify the injured party against the frauds of the pretended owner.

It has been alleged by the occupants of lot number 28, at different times, that in consequence of the refusal of the State to assert its title in 1802, they paid Platner, of whom they had purchased, the balance due on the mortgage to him. If it were true that the State under the circumstances, had been guilty of any neglect, with the consequences of which it would be equitably

chargeable, it is believed that the payment of the mortgage to Platner could not have been evaded, as the parties in interest had, in 1799, executed a new bond to John Bay, Esq., to whom the bond and mortgage of Platner had been assigned. A suit in chancery was instituted in respect to these transactions, and the principles of the decision may be seen by reference to the case of Bumpus against Platner, 1 Johnson's Chancery Reports, page 213. If the occupants of lot number 64, after the trial against Bond, immediately followed by the survey and appraisement by the State, with a view to the assertion of its paramount title, went on and paid Platner or his assignee, the amount due, it is presumed that they considered themselves, like the occupants of lot number 28, legally bound to do so in consequence of some transactions to which they were parties subsequent to the sale and conveyance by Platner.

After a full examination of all the circumstances of the case, the Commissioners are decidedly of the opinion that the occupants of lots number 28 and 64, have been amply indemnified, and that they have no further claim either in justice or equity, to the favor of the State.

Since the commencement of the present session of the Legislature, a new case has occurred in respect to which some proceedings will probably be necessary on the part of the State.

It seems that the occupants of subdivisions number 1, 3, 4 and 5 of lot number 64, (all of which were sold to Mr. Varick in 1817) mortgaged the premises in the year 1806 to the State of Connecticut, (together with a part of lot number 75, in which this State has had no interest since the original letters patent were granted) to secure the payment of \$3,885, loaned to them from the School Fund of that State. On this mortgage interest was paid until the year 1814, immediately after the validity of the Weatherhead mortgage was established by a decision of the supreme court of this State. In 1823, after a lapse of 19 years, proceedings were commenced by the State of Connecticut, with a view to the foreclosure of the mortgage and the sale of the mortgaged premises; and on the 2d December, 1834, a decree of sale was obtained. In January, 1835, the decree was assigned by the State of Connecticut to John C. Underwood, son of John Underwood, deceased, and nephew of Nathan Underwood, who bought in the premises and received the master in chancery's deed, dated the 22d April, 1835.

The amount due the State of Connecticut on the 29th Nov., 1834, was \$8,823.34, and the sum paid by John C. Underwood for assignment of its interest was, as he states, \$3,000. At this rate the State of Connecticut sold out at a loss of about six thousand dollars, or two-thirds of the whole amount of its claim; and the mortgage, as appears by Fortune C. White's affidavit, before referred to, covered 130 acres, which is not claimed by the State of New-York, and which, according to the common value of land in that neighborhood, must be worth nearly, if not quite, the whole amount paid for the interest of the State of Connecticut in the mortgage. The consideration paid for the interest of the State of Connecticut in the lands claimed and conveyed by this State, may therefore be said to have been merely nominal. In January last, separate actions of ejectment were brought by John C. Underwood against the occupants of the premises for the recovery of the possession. One of the suits was tried at the Herkimer circuit in March, and the jury, under the charge of the court, found a verdict for the plaintiff. This information is derived from John C. Underwood, the plaintiff, who is now in attendance on the Legislature, as the attorney of Mr. Alanson Townsend, the defendant, who asks an indemnity from the State on account of the failure of its title, he having purchased of Mr. Varick.

Eighteen days before the circuit, Mr. Dexter, clerk in the office of the Attorney-General, received from Townsend's attorney, a letter, of which a copy is annexed, and marked I. A copy of Mr. Dexter's answer, which was given on consultation with the Comptroller, is also annexed and marked K. It would have been difficult, if not impossible, had the Attorney-General been present, to prepare for defending the title of the State on so short a notice. The defendant in the suit has certainly not shown such diligence in procuring the aid of the State, as it was reasonable to expect, if he were desirous of maintaining his title. Instead of postponing the notice for a month, the Governor should have been promptly apprized of the proceedings, in order that the necessary directions might have been given, as authorized by the Revised Statutes, volume 1, page 164, sections 12 and 13, if the aid of the State had been desired, or if it had been intended to charge upon it the consequences of a failure of title.

It is understood that the verdict was obtained in consequence of the inability of the defendant's attorney to show the convey-

ance of McDougall and Kane to Weatherhead. Of the existence of this conveyance, as late as the year 1805, no doubt can be entertained. It is shown by the minutes of Judge Radcliff, of the trial at Herkimer in 1803, by the original notes of Mr. Lush on file in the office of the Secretary of State, and by the report of the case in the 10th Johnson's Reports, reference to all of which has already been made. There is every reason to believe, that it was recorded in Herkimer county previous to the destruction of the clerk's office by fire; and the Commissioners entertain a confident belief that the original may be found, or that the existence of this ancient deed may be so well established, that a court would admit parol evidence of its contents. It has not been recorded in the office of the Secretary of State; nor, as has been before stated, can any record of it be found in the clerks' offices of Albany and Montgomery counties, in which a search has been made.

The course most proper to be taken, under these circumstances, cannot be determined until the Commissioners ascertain what proofs can be produced. There are two suits yet to be tried; and if a new trial cannot be had in the one tried at the last Herkimer circuit, the trial of the two other will afford an opportunity of defending the State title. Should it fail, the defendants will be entitled to a reimbursement of the amount paid to the State, and interest from the date of payment, if they shall be found to have acted in good faith in the transaction, and to have done all that is incumbent on them to defend their title; and in this case, they may also equitably claim an indemnity for their costs and sacrifices.

The Commissioners deem it due to the State, that the matter should be thoroughly investigated, and that no labor or expense should be spared to defend its title; satisfied as they are from all the facts, that the rights of the State are unquestionable, and that if the investigation shall result in a failure to maintain them, it may possibly lead to a disclosure of the means through which the result has been brought about.

The prayer of the petition of Mr. Alanson Townsend, who was the defendant in the ejectment suit tried in March, is that the State will purchase a release from John C. Underwood of his interest in the land under the mortgage to the State of Connecticut. The Commissioners deem any negotiation for this purpose wholly

inexpedient at this time. If the title of the State should fail after every effort to maintain it, and it should become necessary to compound with any of those, who have been instrumental in defeating it, or who have purchased the Connecticut mortgage for the purpose of speculation, it is due to the public that this course, under all the circumstances of the case, should not be taken, excepting as a last resort to save harmless innocent persons.

In any event, the Commissioners cannot perceive that a claim to an indemnity can be set up, excepting by those who are in the occupation of subdivisions No. 1, 3, 4 and 5, of lot No. 64, the only parts, either of lot 28 or 64, which were covered by the mortgage to Connecticut. For if the claim under this mortgage should ultimately prevail, it will be from a loss of the necessary evidence to prove the deed to Weatherhead from McDougall and Kane, and will not impair, in the slightest degree, the belief that the title of the State was perfect. So long, therefore, as the occupants of the other parts of lot No. 64, and the occupants of lot No. 28 remain in possession under the conveyances made by the State, they can justly claim nothing on account of the failure of the State to maintain its title in other cases distinguished from their own by peculiar circumstances.

Samuel Rider, who is one of the petitioners for relief before the Legislature, is an occupant of a part of lot No. 28, and for the reasons before assigned has no claim to relief.

Anson Rider, another petitioner before the Legislature, states that he is a son of Lewis B. Rider, and is the occupant of subdivisions 8 and 9 of lot No. 64. He claims relief on the following grounds, viz:

1st. That his father paid to the State in 1817, \$771.37 for the part of the lot occupied by him.

This is so far inaccurate, that it omits altogether to state, that by the act of the 19th April, 1819, chap. 22 of the Laws of that year, the sum of \$341.46 was remitted, as appears by the records in the Comptroller's and Surveyor-General's offices, so that the amount actually paid for the part of the lot occupied by him was but \$429.91.

2d. That his father, at the time of the purchase of those subdivisions from the State in 1817, was the occupant and owner, un-

der John Washburn, who purchased of Abner Walker and Nathan Underwood.

This ground is contradicted by the certificate of the Attorney-General, (Mr. Van Buren.) who examined the title in 1817, and who states that Abraham Varick was the owner of those subdivisions at that time. Mr. Samuel B. Rider derived his claim to them from Mr. Varick, whose assignment to him is now on file in the Surveyor-General's office, among the papers marked "Forfeited lands, Freemason's patent," and in pursuance of which the conveyance to him was made by the Surveyor-General.

These subdivisions are not covered by the mortgage to Connecticut, and no relief on this ground can be due. Nor can any other just ground for claiming an indemnity be readily imagined, so long as the occupants remain in possession. There were many transfers of these lots after the appraisement by the State; but it is difficult to believe that these mesne conveyances, with a knowledge of the rights of the State, were made on the payment of full consideration. If there were any such cases, the State ought not to be held responsible for the improvidence in which they originated.

The three petitions referred to are the only applications before the Legislature at this time: and it is believed that no application founded upon these transactions can come up hereafter which may not be disposed of on some of the grounds taken by the Commissioners in this report of their examinations.

JOHN A. DIX, *Secretary of State.*

A. C. FLAGG, *Comptroller.*

WILLIAM CAMPBELL, *Surv.-Genl.*

A. KEYSER *Treasurer.*

Albany, 19th April, 1838.

DOCUMENTS

Accompanying a communication from the Commissioners of the Land-Office, in relation to the Freemasons' patent.

(A.)

Proceedings of the Commissioners of the Land-Office under an act entitled, "An act to take certain proof in respect to the claims of Nathan Bumpus and others, against this State," passed April 11, 1835, Chap. 284, Laws of 1835.

On the 27th June, 1835, the Commissioners of the Land-Office, pursuant to an arrangement with the parties, met at the office of the Secretary of State to receive testimony in favor of the claims.

Nathan Underwood appeared for the claimants on lot No. 64; and James A. Rhodes for the claimants on lot No. 28.

No one appeared in behalf of the legal representatives and heirs of Samuel Merry, jr.

The following statement was then made by Mr. Underwood, as appears by the notes taken by the Secretary of State and Attorney-General at the examination. This statement, though not accurate as a history of the early transactions in respect to these lots, accords, in many essential particulars, with the recorded accounts of those transactions.

Lots No. 28 and 64 were conveyed near 60 years ago by the people, to Allen McDougall, of the city of New-York. McDougall was a tory, and conveyed to John Weatherhead, of the city of N. York, in the time of the revolution. Weatherhead mortgaged the lots in question, with several others, to Thomas Wormald and Joseph Fountain, who assigned to John Thurman. Weatherhead, Fountain and Wormald adhered to the British and went off to England. Forty-five years ago (1790,) Nathan Underwood and others bought lot No. 64 of capt. Eli Brown from the east, who claimed under Norman Williams. Dont know whether Williams had any title. Purchasers did not examine the title at the time of the purchase. Brown said he would go to Canada and get a title. He came back and brought a good looking deed, which turned out to be good for nothing. Purchasers paid him \$1 per acre, which was a total loss.* Within a year purchasers became suspicious

* For the true version of this transaction, see Eli Brown's affidavit annexed, and marked K.

that they had no title. Judge Jedediah Sanger, of New-Hartford, Oneida county, traced out the title for them to Henry Platner, of Clavarack, Columbia county. They then bought lots 28 and 64 of Platner, at \$4 per acre and paid one-quarter down, took deeds and gave mortgages. Lot 28 contained about 474 acres, and lot 64 about 486. The purchase of Platner was in 1794 or 1795. Platner claimed under McDougall, and had a deed from him; but McDougall had previously conveyed to Weatherhead as he (Underwood) understands it. Purchasers went on and made a second payment of \$1 per acre to Platner, when they heard the rumor that the land had escheated to the State by the attainder of Weatherhead. The purchasers then petitioned to the Legislature and asked them to assert their claim if they had any. This was about the year 1804. The petition was referred to the Commissioners of the Land-Office, who, in the end, resolved not to meddle with the matter.

About this time Thurman brought ejectments against the purchasers of lots 28 and 64. One suit was tried against Joseph Bond—the others to abide the event of that trial. Judgment was for defendant, and so Thurman's title failed. Still it was thought best to compromise with Thurman and quiet his claim. Next day made a bargain with him and paid him \$800, besides \$200 costs, which he would have had to pay. Thurman then released to settlers.* The release was given in 1806. Beat Thurman on the ground that the mortgage was outlawed.

After beating Thurman, the purchasers on lot No. 64 paid up the Platner debts. The settlers on lot No. 28 stood out, and Platner sued and beat them.

About two years after, this Samuel Merry began to locate (as he termed it) on the lands, pretending that it had escheated on the attainder of Weatherhead, and that he could obtain a quarter of them by giving information. He died soon after, and every thing remained quiet for some years.

About 1816, the State bought the Weatherhead mortgage of Ralph Thurman, who was nephew and administrator of John Thurman, then deceased, and gave for the mortgage \$10,000, besides certain quit-rents. In 1817, the purchasers of lots 28 and 64 petitioned the Legislature to examine the facts and release these lots. The Legislature would do nothing, and almost all the settlers purchased of the State at \$7 per acre for 64 and \$6.37½ per acre for 28. All purchased except Nathan Underwood, who owned 200 acres of lot 64, and John Underwood, who owned 74 acres of the same lot. Soon after this, Abraham Varick purchased of the State the parts of the two Underwoods.

Mr. Underwood was here asked by the Board why the purchasers bought of the State under the Thurman mortgage, if, as he had stated, Thurman had released to them after the Bond trial.

Mr. Underwood's answer was, that they were frightened.

In 1830, Nathan Underwood for himself and brother John got \$1,100 and interest, (in all about \$2,000,) from the State for their

* See pages 5 and 14.

† It appears that the whole amount was procured for himself.

claim. The allowance was on account of improvements. The lands had been appraised at full value, and the State paid for improvements.

The State never claimed on the ground of Weatherhead's attainder, and so Merry had no claim. The State claimed as assignee of the mortgage.* Don't know that the mortgage was ever foreclosed by the State.

Here ends Mr. Underwood's narrative.

Before entering on the proofs, however, he stated that the release of lots 28 and 64 from the Thurman mortgage after the Bond trial was single, not several; that it was in the hands of Ethel Judd, who attended the Legislature in 1816 and 1817, and afterwards said that he had lost it—that he had left it among some papers at Albany.

The following testimony is taken from the notes of the Secretary of State, Comptroller, and Attorney-General:

Captain Ebenezer Cowles, was now sworn, says he was on the grand jury at the circuit court in Herkimer county, 33 or 34 years ago. The grand jury was dismissed the day before the Bond trial came on; but, as his neighbors were interested, stayed and heard it: claim of John Thurman against Joseph Bond, one of the settlers on lot 64; Thurman failed. The next day the settlers on lots 28 and 64 compromised with him. They agreed to pay him about \$1 per acre, or near it, (about \$800,) I think, with a proviso, that if any other claim came afterwards, they were to have the benefit of his chain of title. On this payment, Thurman was to relinquish his claim on the land. They gave him obligations for the money, one signing for another, so that each note or obligation had three names on it. There was a writing between Gold and Ecker, the latter being counsel for Thurman, and Gold for the settlers. Never saw the writing, but understood it was signed by Ecker and Thurman. Don't know what it contained, except what he heard. The business was done at a tavern near the court-house in the daytime. Witness never had any interest in the lots. Understood that the notes and the writing were given to close the settlement. Understood that the settlers compromised with Thurman because they were advised to do so by Mr. Gold, their counsel, who said Thurman was a powerful man, and would make them more trouble than \$1 per acre would come to. Settlers claimed to hold under Henry Platner. The writing given by Thurman, in consideration of the compromise and payment of \$800, was to secure to the settlers the benefit of his claim of title. Witness lives in Litchfield, Herkimer county, where he has resided 40 years.

Nathan Underwood, jr., sworn. Recollects the paper executed by Thurman, which was called a release or discharge. Read it at his uncle's, John Underwood's, house twice in one day. This was about the year 1817. Saw it at another time, but don't recollect whether it was before or after. Thinks it was in the hands of Ethel Judd, who was an agent of the settlers to petition the Legis-

* This statement is altogether untrue. The State discharged the mortgage to quiet the purchasers.

lature, or when it was wanted for the Platner law suits. Thinks this was before he saw it at his uncle's house. Has read the paper three times; once when it was wanted for the Platner suits. Don't know what has become of it. Judd is dead. He died at the west; won't be certain in what county, by thinks in Cattaraugus. Thinks the last time he saw the paper it was in the hands of his uncle John. Don't know certainly whether it was delivered to Judd or not, but thinks the last time he saw the paper it was delivered to Judd. Don't recollect whether Judd was coming to Albany or going to attend the Platner suit.

Captain Cowles called again. Thinks the payment to Thurman by the settlers was \$800, and Gold's costs, whatever they were.

Nathan Underwood, jr. again. The Board now presented a paper, of which the annexed document C, is a copy. The original is contained in volume 10 of Assembly papers, which were bound together and deposited in the office of the Secretary of State, by a resolution of the Assembly. Witness was asked if this was the paper which he saw, and which was referred to as having been executed after Bond's trial. Could not say that it was not the one he saw. Thinks the one he read was on a half sheet with a seal to it, and only one name, but cannot say. This may be the one. Witness was then told to read the paper. Was then asked whether this was the paper. Could not tell. Thinks he saw a paper like the one in the book, which must have been a copy, and which was sent to New-York to show to Mr. Thurman. Thinks there was a different paper, that begun with writing clear across the sheet, at the top. Thinks it commenced with receipting the money and relinquishing Thurman's right.

Witness was then shown a petition in the same volume, accompanying the agreement of Thurman and Ecker. Knows most of the signers' hand-writing. Thinks the petition genuine, and that it is the hand-writing of the petitioners. See annexed document marked B.

(B.)

To the Honorable the Senate and House of Assembly of the State of New-York.

The petition of the subscribers, actual settlers upon a tract of land known and distinguished by Freemason's patent, situate in the town of Litchfield, in the county of Herkimer,

RESPECTFULLY SHEWETH:

That your petitioners have severally become purchasers of farms situate in the patent aforesaid, on which they have made large and expensive improvements, by erecting buildings and making clearings thereon.

That they have paid, or become obligated to pay to those of whom they purchased, the full value of their respective farms at the time of the purchase.

That actions of ejectment have been commenced against your petitioners severally, to recover from them the possession of their said farms, in which said actions James Jackson ex dem Thomas Wormald, Joseph Fountain, Hallon Wolrick and Thomas Wolrick, is plaintiff.

That the said Thomas Wormald, Joseph Fountain, Hallon Wolrick and Thomas Wolrick, are mortgagees of one John Weatherhead, late of the city of New-York, merchant, now of Richmond, in the county of Surry and kingdom of Great Britain.

That to secure the payment of the several sums of two hundred and forty-three pounds, one shilling and ten pence, on or before the fifth day of August, then next ensuing, with interest at the rate of five per cent, and three hundred and sixty-seven pounds, eighteen shillings and five pence, money of Great-Britain, on or before the twelfth day of August then next ensuing aforesaid, with interest as aforesaid, the said John Weatherhead, by a mortgage, bearing date the second day of March, one thousand seven hundred and seventy-three, mortgaged to the said Thomas, Joseph, Hallon and Thomas, two full and equal and undivided fifty-fifth parts, the whole into 55 parts to be divided, of all that certain tract or parcel of land situate, [Here follows a description of the premises agreeing with the original letters patent.] Reference being had to the said mortgage, now upon record in the clerk's office in the county of Montgomery, will more fully appear.

That the above described land is known by the name of Freemasons' patent, aforesaid.

That the said John Weatherhead, by an act of the Legislature of the State aforesaid, entitled "An act for the forfeiture and sale of the estates of persons who have adhered to the enemies of this State, and for declaring the sovereignty of the people of this State in respect to all property within the same," passed the twenty-second of October, one thousand seven hundred and seventy-nine, was, by name, attainted of the offence of adhering to the enemies of this State, and thereby his whole estate forfeited to the people of this State.

Therefore, your petitioners pray, that your honorable body would take the premises into your consideration, and authorize such an inquiry as to you may seem proper, to ascertain if any and what estate the people of the State of New-York have to such preportion of the above described parcel of land as belonged to the said John Weatherhead; and if the title to the same should be found to belong to the people of this State, that your honorable body would consider the situation in which your petitioners stand in regard to the said lands, and allow them, by a law to be passed for this purpose, the right of pre-emption, and such other relief in the premises as your honorable body may deem proper.

And your petitioners will ever pray.

JOSEPH BOND,
THOMPSON DOOLITTLE,
MOSES BROCKWAY,
NATHAN UNDERWOOD,
ABNER WALKER,
EBENEZER CONANT,
JOHN UNDERWOOD,
THOMAS GAGE.

The petition is endorsed as follows:

Petition of Joseph Bond.

In Senate, March 11, 1802. Referred to the Attorney-General and Surveyor-General.

(C.)

SUPREME COURT.

Joseph Bond	
ads.	
James Jackson, ex dem., Thomas	} Taxable costs in each suit, Fifty dollars.
Wormald, Joseph Fountain, Thomas	
Wolrick and Hallon Wolrick.	
John Underwood,	} Fifty dollars.
ads.	
Same.	
Simeon Bumpus,	} The like.
ads.	
Same.	
Zakock Rider,	} The like.
ads.	
Same.	
Thompson Doolittle,	} The like.
ads.	
Same.	
Gladding Bumpus,	} The like.
ads.	
Same.	
Isaac Bumpus,	} The like.
ads.	
Same.	
Ebenezer Judd,	} The like.
ads.	
Same.	
Moses Brockway,	} The like.
ads.	
Same.	

Abner Walker,	}	The like.
ads.		
Same.	}	The like.
Josiah Mansfield,		
ads.	}	The like.
Same.		
Thomas Canfield,	}	The like.
ads.		
Same.	}	The like.
Nathan Underwood,		
ads.	}	The like.
Same.		
Thomas Gage,	}	The like.
ads.		
Same.	}	The like.
Ebenezer Conant,		
ads.	}	The like.
Same.		
Nathan Bumpus,	}	The like.
ads.		
Same.	}	The like.

We, John Thurman of the county of Washington, and George I. Eacker of the city of New-York, Esquires, do and each of us doth promise and engage to and with each of the above named defendants, that each and every of the above causes shall be discontinued, and no further prosecuted; also, we do jointly and severally promise and engage to and with each of the aforesaid defendants, that we will refund and repay to them respectively, the bill of costs in each of the above suits; as above carried out, and the interest thereupon until paid, and which is the taxable bill of costs in each of the above suits, so far as they have respectively progressed to this date, secured to be paid to us on their being discontinued as aforesaid, or so much thereof as shall have been actually paid, upon condition and in case that we, the said John Thurman and Geo. I. Eacker, or the lessors of the plaintiff in those suits, or either of us, or any one claiming by, through or under us, or either of us or them, shall at any time hereafter, commence, prosecute or cause to be commenced or prosecuted, any action in trespass, ejectment or otherwise, to recover possession or title to the premises or any part thereof, in either of the aforementioned suits. Dated the nineteenth day of September, one thousand eight hundred and three.

In presence of

JOHN THURMAN,
GEO. I. EACKER.

The mortgage under which John Thurman claimed the lands for the recovery of which the above mentioned ejectments were brought, has been discharged and paid by the State of New-York. Comptroller's office, Oct. 17, 1867.

ARCHD. McINTYRE.

[Senate, No. 91.]

E

(D.)

To the Honorable the Legislature of the State of New-York, in Senate and Assembly convened :

The petition of Zadack Rider, Peleg Brown, Ethel Judd, Roland Stiles, John Porter, Anthony Rodes and Samuel Rider, all of Winfield, in the county of Herkimer,

RESPECTFULLY SHEWETH :

That lot No. 28 in the Freemason's patent, containing four hundred and ninety-seven acres of land, was in or about the year 1794, sold and conveyed by Henry Platner, of the county of Columbia, (claiming title thereto under a conveyance from Allen McDougale, the original patentee,) to Simeon Bumpus, Isaac Bumpus and Nathan Bumpus, for the consideration of two thousand dollars, the greater part of which was actually paid and advanced to the said Platner, and the residue secured by bond and mortgage; under which conveyance the said purchasers entered into the possession and improvement of said land, and built houses and barns thereon, expending great sums in the improvement of the premises.

That in or about the year 1800, six ejectment suits were instituted against the said purchasers and their assigns, by John Thurman, now deceased, under a mortgage deed of the premises, executed in or about the year 1774, by John Weatherhead, (the proprietor of the said lot under the said McDougale;) and that the circuit court for said county in the year 1803, in consequence of a verdict being obtained for the defendant, or a non-suit in one of the causes, a compromise took place between the defendants and the said Thurman, by which the causes were to be discontinued, and the defendants to pay the plaintiff's costs; the same being three hundred dollars, to be refunded if the claim should be renewed.

Your petitioners further state, that John Bay, Esq. (having become the assignee of the mortgage given for the residue of the said purchase money, and having, by representations of the validity of the said Platner's title, induced the said purchasers to renew the said mortgage and bond to him,) in the year 1800, instituted a suit on said bond in the supreme court of judicature; and, for the purpose of obtaining relief against said suit, a bill was filed in chancery, and after years' litigation and an expense of between \$800 and \$900, a decree was made against the complainants, and they were left liable to satisfy the said bond and mortgage to Mr. Bay, which they have done.

Your petitioners beg leave further to state, that there is too much ground to believe that the conveyance set up by the said Platner, from Allen McDougale, was a forgery, or at least executed by a different person of the same name as the original patentee, (who had long before released his right to John Weatherhead, the equitable purchaser of the lands from the State or Colony.)

Your petitioners further represent, that the mortgage given by the said Weatherhead in the year 1774, on which the said John

Thurman instituted said ejectment suits, being outstanding, and on a trial in the supreme court, found valid and unsatisfied, the Legislature, by act for that purpose, authorized the amount due thereon to be paid to Ralph Thurman, the heir or devisee of the said John Thurman, which payment was made, and the State thereupon claimed the said premises in virtue of the attainder of the said John Weatherhead.

Your petitioners further state, that they have become invested with the title to said premises, derived under the said Simeon Bumpus, Isaac Bumpus and Nathan Bumpus, and are in the possession and improvement of said lands, (which have been settled between twenty and thirty years;) but have been recently alarmed by information that the State is about to expel them from their farms, or exact the value thereof, after all they have suffered, and the heavy and oppressive sums they have from time to time been compelled to pay.

Your petitioners humbly conceive that the proposed measure of the State, to resume those lands, at this late day, would operate peculiarly hard and oppressive on them, as they did, in or about the year 1798, apply to the Legislature to ascertain and establish the title of the State to said lands, to the end that your petitioners might, by purchase, acquire title thereto, which, on a report of the officers of the government, was then declined; and your petitioners were left to struggle with the claimants at an expense and trouble equal to the value of the land.

Your petitioners, therefore, humbly pray the honorable the Legislature, to take their case and sufferings into their serious consideration; and if it be found just and equitable, as your petitioners conceive it to be, to relinquish the claim of the State to said lands, or grant such other relief as to the wisdom of the Legislature may seem meet: And your petitioners, as in duty bound, will ever pray.

Dated at Winfield, the 9th day of January, 1818.

ZADOCK RIDER,
PELEG BROWN,
ETHEL JUDD,
ROLAND STILES,
ANTHONY RHODES,
SAMUEL RIDER,
JOHN PORTER.

We certify, that the within named petitioners are settlers on lot number 28, in the Freemason's patent; and that from the information we have, we verily believe that the facts stated in the within petition, are true.

LEVI CARPENTER, Jr.
JERE'H HOLMES,
BENJAMIN COLE,
ASA BABCOCK,
JOHN BUDLONG,
ELDAD CORBET.

(E.)

The Attorney-General and the Surveyor-General, to whom was referred the petition of Joseph Bond and others, actual settlers upon a tract of land known as Freemason's patent, situate in the town of Litchfield in the county of Herkimer, respectfully report:

That John Weatherhead, on the second day of March, 1773, to secure the payment in all of £811.0.3, sterling money, mortgaged to Thomas Wormald and Joseph Fountain, Thomas Wormald and Hallon Wolrick, two tracts of land, to wit: Two thousand acres of land in the now State of Vermont, and two-fifty-fifth parts of fifty thousand acres of land in the now county of Herkimer, being the land whereon the petitioners reside.

That the estate of the said John Weatherhead was forfeited to this State, by his attainder.

That the amount now due on the said mortgage, is \$6,650.52, and the estimated value of the said lands, exclusive of the improvements thereon, is about \$9,000.

In the opinion of the Attorney-General and Surveyor-General, it would not be advisable for the State to embarrass itself with a redemption of the mortgaged premises, but it would be proper to sell the same, subject to the said mortgage. The law gives to the Surveyor-General full authority to make such sale.

All of which, &c.

Endorsed.

Draught Attorney and Surveyor-General's report on the petition of Joseph Bond, &c. respecting land forfeited by the attainder of John Weatherhead.

(F.)

Mr. Samuel Merry junior, claims to be the discoverer of lots No. 5, 26, 64 and 98, as described in the field book of the division of a patent granted 12th June, 1771, to William Bayard and others, called the Oneida Purchase; and that said lots became forfeited to the people of this State, by the attainder of John Weatherhead. In support of his claim, Mr. Merry has adduced documents by which the following facts are established:

1. On the 12th June, 1771, letters patent were granted to William Bayard, Allen McDougall, William Kane and 52 others, for a tract of land lying on the south side of the Mohawk river, in the then county of Albany, containing 50,000 acres.

2. On the 19th October, 1771, Allen McDougall and William Kane, by indenture of release, granted and conveyed, in fee, to John Weatherhead, all their right, title and interest in said patent, being 2-55 parts.

3. March 2, 1773, John Weatherhead mortgaged the said pre-

mises, with other lands; the money secured was payable in 1773. The mortgage was not registered until 1787.

4. 22d October, 1779. The said John Weatherhead was attainted by act of the Legislature, and his estate confiscated.

5. On the 17th July, 1787, partition of the patent was made, and lots No. 28 and 64 were drawn to the share of Allen McDougall; and lots No. 5 and 98 to the share of William Kane.

6. In September, 1803, an action of ejectment commenced on the said mortgage, against one of the possessors of No. 64, was tried before Mr. Justice Radcliff. The plaintiff gave no proof counteracting the presumption of payments, arising from the lapse of time, since 1773. The judge charged the jury to find for the defendant, which they did accordingly. From the facts above stated, I am of opinion that the discovery and disclosure made by Mr. Merry, is sufficient to establish the right of the people of this State in and to the said four lots of land, and that the said Samuel Merry junior, is entitled to the benefit of such discovery.

JOHN WOODWORTH,

Attorney-General.

(G.)

STATE OF NEW-YORK COMPTROLLER'S OFFICE, }
Albany, February 5th, 1818. }

SIR,—In answer to your letter of this morning, as chairman of a select committee of the honorable the Assembly, on the report of the Attorney-General on the petition of Zadock Rider and others, I have the honor to state, that the amount ascertained to be due in April, 1818, on the mortgage of John Weatherhead to Thomas Wormald and others, and assigned to John Thurman, and directed by the act, chapter 202, session 37, to be paid to the legal representatives of said John Thurman, was..... \$8,124 95

And that the amount of the judgment directed by the act, chapter 127, session 36, to be allowed, amounted to 4,052 74

Making the total sum paid or allowed to the representatives of John Thurman,..... \$12,177 69

Of this sum it appears that there was paid out of the treasury to the legal representatives of John Thurman, pursuant to the first of the above mentioned acts,..... \$6,813 06

And that the residue, being the estimated amount of quit-rents due on the estate of John Thurman, including commutation, was retained for those quit-rents; although the quit-rents have not, as yet, been discharged, for want of proper specifications of the lands, &c.. 5,364 63

\$12,177 69

It may be proper also to state, that in addition to the sums paid and allowed as above to the representatives of John Thurman, there were credits given pursuant to said act, passed 37th session, to the purchasers from the State of parts of the premises mortgaged by Weatherhead on account of the purchase moneys due from them, to the amount of \$663.32; and that others, who have not yet made or completed their purchase, will be entitled to credits to the amount of \$31 $\frac{1}{4}$, making \$694 $\frac{3}{4}$ credited and to be credited to the purchasers from the State, for the costs and rents recovered of them by Thurman and his representatives. This sum, added to the amount paid to the representatives of Thurman, out of the treasury, and allowed on account of quit-rents, make an aggregate of \$12,872 $\frac{1}{4}$.

By a statement furnished by the Surveyor-General, it appears that 1,103 acres, 2 roods and 29 perches of land, forfeited by the attainer of John Weatherhead, in the Freemason's patent, were sold by him to the occupants, for..... \$9,545 47
And that 584 acres, 3 roods and 21 perches of those

lands remain unsold, which were valued, in 1804, at 3,971 52

Making the total value received and to be received by
the State, for those lands,..... \$13,516 99

I have the honor to be, very

Respectfully, sir, your most ob't serv't,

ARCHIBALD MCINTYRE.

AARON HACKLEY, JR. Esq.

*Chairman of the committee of the Assembly on the
Petition of Zadock Rider and others.*

NOTE.—This statement was given in 1818. By the act of 19th February, 1819, Abraham Varick and Lewis B. Rider were credited with a remission of interest from 1805 to 1818, so that "the total value received and to be received," as above given, was reduced to the amount of the appraisement, \$11,202, with interest from the 3d of April, 1818.

Albany, April 8th, 1836.

(H.)

The people of Litchfield express great concern upon the subject of the Judge Underwood claim against the State.

Several persons from the neighborhood of the Judge, have called on me within a few days past, saying that the judge and some of his imps had been before you and the other Commissioners at Albany, on this subject, and are apprehensive that the judge by misrepresentation, may succeed in getting more money from the State.

These persons are desirous to be informed of the nature of this claim; whether it is pretended by the judge and his associates, that the purchasers paid for improvements, and therefore claim the difference in the value of these lands, in a state of nature, and their value, including improvements, or whether they ask back the whole purchase money for the reason that their lands were released from the Thurman mortgage, prior to the purchase of that mortgage, by the State. The people of Litchfield, are apprehensive that the judge and his associates are misrepresenting and perhaps misswearing this matter before you, and would refer your Board to the affidavits and papers, which were presented to the Legislatures of 1834 and 1835, in opposition to this claim.

If there is any prospect of the judge's succeeding upon his representations and testimony, they desire that you will advise them through me, what those representations and testimony are, and thus afford them an opportunity of rebutting the judge's pretensions, if it be allowable so to do.

If you shall think it of any use to hear any thing in opposition to this claim, Litchfield will furnish you abundance of evidence on almost any point, and to the entire prostration of the whole of this claim, and the judge's prospects.

(I.)

Utica, February 22d, 1836.

DEAR SIR:—John C. Underwood, who has obtained title to part of lot No. 64, Freemason's patent, under the foreclosure of a mortgage given by Jno. Underwood, Nathan Underwood and Thomas Canfield, to the Commissioners of Connecticut School Fund, has commenced an ejectment suit for part of the lot against Alanson Townsend, who purchased of Abraham Varick. The land was conveyed to Mr. Varick, by the Surveyor-General, 27 Dec., 1817. The State claimed lot No. 64, as escheated by the attainder of John Weatherhead. By referring to the Report of the committee on claims, Assembly Document 1826, No. 202, you will see an abstract of the title to this lot, and a short history relating to it. You will see that the deed to John Weatherhead is an essential link in the chain of title. If that deed can be found or produced, we can doubtless establish a good title by escheat in the State. *This suit is brought to try the validity of the State title*, and with a view of laying a foundation of a claim against the State, for the money the State has received for the land, in case the title of the State cannot be established. It is therefore important that the suit should be defended, and the title of the State established if possible. Mr. Townsend has employed me to defend the suit. I have advised him that no defence can be made except by establishing the title of the State, and that that title cannot probably be established without the deed to Weatherhead or a re-

cord of it can be found at Albany; please send it to me, in case you do not wish to assume the defence of the suit, in behalf of the State. If it ever was recorded in Herkimer county the record of it was probably lost, when that clerk's office was burnt, about 1804. This matter is an old acquaintance at Albany. I hope you will advise what course to take, and in case you do not assume the whole defence of the suit, which I desire you to do, send to me *such evidence as will enable me to establish* the State title. The cause was commenced about 28 January last, and is noticed for trial at the next Herkimer circuit on 2d Monday of March next. I have not before written you, as I supposed you was absent from Albany.

Very truly yours,

CHA'S A. MANN.

HON. S. BEARDSLEY,
Attorney General.

Shew this to the Comptroller, who knows something about lot No. 64.

(K.)

ATTORNEY-GENERAL'S OFFICE, }
Albany, Feb. 25, 1836. }

CHARLES A. MANN, Esq.

Sir—Your letter to the Attorney-General of the 22d inst. was received yesterday, and in his absence laid before the Comptroller. He has no other knowledge of the deed to Weatherhead, than what is derived from the Journals and acts of the Legislature, nor is any record of it to be found in the Secretary's office. The Attorney-General is now at Washington, where he is detained by the indisposition of Mrs. B., and where he may be obliged to remain until the river opens; and even if he was here, and should consider it proper to give his aid in the defence of the suit, there would scarcely be time between this and the second Monday in March to make the requisite preparations. In this state of things, I do not feel at liberty to give any directions or make any suggestions in relation to the defence of the suit.

Since the receipt of your letter, I have looked over a few of the Journals, &c., with a view of tracing the history of lots 28 and 64 in Freemason's patent, forfeited by the attainder of Weatherhead, and I take the liberty of subjoining a few references that may possibly be of some little service to you.

Respectfully, &c.

J. DEXTER.

STATE OF NEW-YORK, }
Herkimer County. } ss.

Eli Brown, of the town of German Flatts, formerly of Litchfield, in said county, being duly sworn, saith, that about forty years ago this deponent made a contract to purchase from Norman Carlos Williams three lots of land lying in Freemason's patent, which patent lies partly in Litchfield and partly in the adjoining towns of Oneida county. That this deponent cannot now recollect the numbers of said lots, but one of said lots comprised the lands which were then occupied by Nathan Underwood and Samuel Miller and others in Litchfield. The said lots, it was at that time said, had been owned by one John Weatherhead, who was a tory during the revolutionary war. That while this deponent was bargaining for said lots, Nathan Underwood, Samuel Miller and some others, advanced to this deponent money to enable this deponent to purchase said lots. That it was finally ascertained that the title which this deponent was about to purchase was defective, and this deponent repaid to said Underwood and the other persons who had advanced money as above mentioned, all the money they had so advanced. That in the said negotiation, this deponent paid about eight hundred dollars, which was wholly lost to this deponent; but the persons who advanced money to this deponent never lost one dollar of their money, as it was all repaid by this deponent. That this deponent never gave a deed for said lands to Nathan Underwood or any other person.

ELI BROWN.

Sworn and subscribed, this 10th day }
 of April, 1834, before me, }

JULIUS C. NELSON,

Clerk of Herkimer county.

(L.)

Herkimer County, ss. Jeremiah Kinne, of the town of Litchfield, in the county of Herkimer, being duly sworn, saith, that in year 1804 this deponent owned and occupied a farm of one hundred and fifty acres, lying in said town of Litchfield, and being a part of lot number ninety-eight, in a patent called Freemason's patent or Bayard's patent. That this deponent has continued to own and occupy said farm from the year 1804 to this day. That in the year 1804 the value of said lot No. 98, and three other lots in said patent, was appraised by Evans Wharry and John Myer, commissioners said to have been appointed by authority of the State. The three other lots were Nos. 28, 64, and No. 5. That this deponent accompanied the said commissioners while they were examining lot No. 98. That this deponent, during the progress of said examination, heard said commissioners say repeatedly, that

[Senate, No. 91.]

F

they should make their appraisal as if the lands were wild and uncultivated, and should not include in their estimate the improvements made on said lands. That the lands which this deponent then occupied in lot No. 96 were appraised by said commissioners at seven dollars per acre; and this deponent further said, that at the time of said appraisal said farm, in the opinion of this deponent, was worth twenty dollars per acre, including the improvements; and in the year 1808 this deponent was offered twenty-one dollars per acre, for the whole of said farm, which offer this deponent refused to accept. That at the time of said appraisal, the farms on lot number sixty-four, occupied by Nathan Underwood, John Underwood, Thomas Canfield, Joseph Bond and Moses Brockway, with the improvements on said farms, were worth, or considered as high by the acre as was the farm then occupied by this deponent as aforesaid.

JEREMIAH KINNE.

Sworn and subscribed this 31st day }
of March, 1834, before me. }

J. J. EACKER, *Justice*.

STATE OF NEW-YORK.

No. 92,

IN SENATE,

April 19, 1836.

REPORT

Of the Commissioners of the Land-Office, in relation to lots numbers twenty-eight and sixty-four in the Freemasons' patent.

TO THE SENATE.

The Commissioners of the Land-Office, in pursuance of the resolution of the Senate of the 26th ult., requiring them to report "the title by which the State became seised of lots number twenty-eight and sixty-four, in Freemasons' patent, in the county of Herkimer, conveyed in the year 1819, by Simeon De Witt, Esq., late Surveyor-General, to Abraham Varick; and, if the same was derived by escheat from John Weatherhead, that they report what title the said Weatherhead had thereto, and the evidence of such title," have the honor to present the following

REPORT:

The chain of title, by which the State held the lots in question, is as follows, viz:

1. Patent for 50,000 acres of land, known originally by the name of Bayard's patent, afterwards as the Oneida purchase, and more recently as the Freemasons' patent, to Wm. Bayard, Allan McDougall, Wm. Kane, and fifty-two others, 12th June, 1771, book No. 15 of patents, in the office of the Secretary of State, page 518.

[Senate No. 92.]

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2. A deed in fee, from Allan McDougall and Wm. Kane to John Weatherhead, for their interest, being two fifty-fifth parts of the whole quantity of land included in the patent. The existence of this deed is shown by the 10th Johnson's Reports, page 414, the Assembly Journal of 1826, page 512, and by an original paper prepared by Stephen Lush, Esq., on file in volume 36 of Assembly papers in the office of the Secretary of State.

3. The attainder of John Weatherhead, by virtue of the act of 22d Oct. 1779, chap. 25 of the laws of that year, and the forfeiture of all his estate, real and personal, to the people of this State.

4. A partition of the land, by virtue of the act of 11th April, 1787, chap. 78, of the laws of that year, by which partition lots No. 28 and 64 fell to the share of Allan McDougall, and lots No. 5 and 98 to Wm. Kane.

The only evidence in possession of the Commissioners at this time, of the deed to Weatherhead from McDougall and Kane, is contained in the references above made. There is no doubt that there was such a deed, and that it was both acknowledged and recorded. The record was probably destroyed when the Herkimer county clerk's office was consumed by fire. The Commissioners can find no record of it. They have, however, taken measures to procure the original, if it can be obtained, but have not yet succeeded.

There was a mortgage from Weatherhead, in 1774, to Thomas Wormald and others, which was assigned by the mortgagees to John Thurman, and purchased of the latter by the State, in 1814. The State has never claimed title under this mortgage. It was decided by the supreme court to be a subsisting incumbrance, and it was discharged by the State, for the purpose of quieting the occupants by giving them an unencumbered title, instead of selling to them subject to the mortgage.

The Commissioners beg leave respectfully to refer to a communication to the Legislature, dated to-day, for a full account of the transactions connected with this forfeited estate. This communication is made under the act of 11th May, 1835, chap. 284 of the laws of that year, and contains all the information necessary to a

correct understanding of the legal and equitable rights of the claimants now before the Legislature.

Albany, 18th April 1836.

JOHN A. DIX, *Secretary of State.*

A. C. FLAGG, *Comptroller.*

WILLIAM CAMPBELL, *Surv'r-General.*

A. KEYSER, *Treasurer.*

STATE OF NEW-YORK.

No. 93.

IN SENATE,

April 25, 1836.

REPORT

Of the select committee on the engrossed bill from the Assembly, in relation to the court-house, jail and clerk's office, in the county of Montgomery.

Mr. Spraker, from the select committee, to whom was referred the engrossed bill from the Assembly, in relation to the court-house, jail and clerk's office in the county of Montgomery,

REPORTED:

That the bill proposes a removal of the court-house, jail and clerk's office of said county from the village of Johnstown to the village of Fonda, and to provide for the erection of new buildings at the latter place; that the question of the propriety of the removal of the public buildings of said county, to some convenient place in the valley of the Mohawk, has been agitated more or less for several years past; and the conviction that such a removal would be effected, has influenced the board of supervisors in withholding appropriations for other than temporary improvements of said buildings; that the subject has been discussed for the past year in the newspapers in said county; that the board of supervisors of said county, at their last annual session, impressed with the necessity of erecting a new jail, took this whole subject into consideration, and determined with a very near approach to unanimity, to present a petition to the Legislature, asking for the passage of a law to change the place of holding the courts of said county, and to provide for the erection of new county buildings.

[Senate, No. 93.]

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The petition of the board of supervisors represents:

"That the interests and convenience of a very large majority of the people of the county require that the removal asked for should take place; that Johnstown is quite an isolated village, and being several miles distant from the main avenues leading through the county east and west, subjects most of those having official business to transact at that place, to great inconvenience and expense; that the roads leading to it from the densely populated portions of the county are rough and hilly, and often in a very dangerous condition; that the village of Fonda is situated in the valley of the Mohawk, much more central than Johnstown, as it regards the business and population of the county, and altogether so as to the means of communication. It is within an eighth of a mile of Fultonville, on the Erie canal, with which place it is connected by a bridge over the Mohawk river; that the Mohawk turnpike and the Utica and Schenectady rail-road pass through the centre of the village; and when the latter shall have been completed, persons living at either extreme of the county will be able to reach the contemplated capital in a single hour; that the money, to say nothing of the time that would be saved by the removal solicited, to suitors, witnesses, judges, jurors, lawyers, and a great majority of those who are called to the county seat on official business, would, in a very few years, pay for the entire cost of new county buildings.

"That the present court-house and jail are antiquated, old fashioned edifices, having been erected previous to the revolutionary war. That the latter is neither comfortable nor commodious, and illy accommodates the keeper and his family, and the prisoners confined therein. That these circumstances and the fact that these buildings are constantly needing repairs, require as a matter of economy and convenience that they (the jail in particular) should be immediately rebuilt."

That since the action of the board of supervisors on this subject, rival interests have presented other locations in the valley of the Mohawk, to wit: Fultonville, immediately opposite the village of Fonda, on the canal; Connelly's Flatts, five miles west of Fonda; and also a project for half-shiring, with two court-houses in the valley of the Mohawk, one at Amsterdam and the other at Palatine bridge.

That about 3,800 person have remonstrated against the removal of the public buildings to Fonda, who express themselves in favor of their retention at Johnstown, and who deny all the material statements made by the board of supervisors. About 1,200 others remonstrate against a removal to Fonda, whose names appear on petitions for removal to places in the valley of the Mohawk, other than Fonda, their apparent, and with many their avowed object, being to defeat the present bill, with a view of future success with their own favorite locations; they ought not, therefore, to be considered legitimate remonstrants.

That the whole number of petitioners for removal to the valley of the Mohawk, is about 5,300, of which number nearly 4,000 are in favor of the location at Fonda, 595 for Fultonville, directly opposite, 266 for Connelly's Flatts, and 520 for half-shiring.

That there is also a petition in favor of the removal to Fonda, signed by the sheriff, county clerk, district attorney, and more than three-fifths of the members of the bar of the county.

The surrogate, treasurer, two of the county judges, and 17 lawyers, are among the remonstrants, all of whom except four reside in the village of Johnstown.

That among the remonstrances against the location of Fonda which have been presented since this bill has been reported in the Assembly, is that of 12 of the 20 supervisors elected in 1836.

This has been effected by the conflicting claims of location, for in none of the towns, except one, was the question of removal made the test of the election. One of the twelve supervisors has certified that he signed the remonstrance, because he preferred the location at Fultonville; but that if he cannot have his wishes gratified, he is in favor of the location in the bill. Another certifies, that he signed the remonstrance with a view to favor half-shiring. The supervisor of Northampton, says, that his special signature on the remonstrance was intended to shew nothing more than that he, in the board, voted for the removal, and was re-elected by 87 majority in 1836; no question having been made on the subject at his election.

With these explanations, it is apparent that a majority of the present supervisors are in favor of the removal, although not entirely agreeing as to the precise location.

From the number of petitioners, forty or fifty should be deducted, because some names appear more than once, some are those of minors, and some unauthorized signatures. Such trifling irregularities may not be unusual, considering the large number of petitioners; but the irregularities and deceptions on the remonstrances proved and brought to the knowledge of your committee, are extraordinary, unprecedented, and calculated to create a suspicion as to the genuineness of signatures of persons unknown to your committee.

There are on the remonstrances, not included in the statement of numbers above made, about 900 names which appear to be improperly before the Legislature: of these 381 appear twice on the remonstrances, 54 three times, 12 four times, one five times.

One remonstrance, containing about 200 names, appears to be composed of fictitious names, and minors from the village of Johnstown; and between two and three names hundred are proved to be in the hand-writing of an individual who, it is said, received five dollars per hundred names for obtaining remonstrants.

Affidavits and certificates from a number of citizens of Montgomery county, who, to the knowledge of your committee, are men of the first respectability, show that a large number of these names are placed there without authority; that some of them are residents of Schoharie county, of minors, &c. It is but justice to the individual alluded to, however, to say that he has made an affidavit stating that he is not aware that any name is improperly upon the remonstrances referred to. There is evidence, that of the names on the remonstrances, several are those of persons residing in the counties of Albany, Saratoga, Warren, Herkimer, Livingston and Otsego.

From the above statement of facts, independent of the suspicion attaching to the remonstrances, it is manifest that a large majority of the electors of Montgomery county are in favor of a removal of the public buildings from Johnstown to the valley of the Mohawk, and that the location designated in the bill referred to your committee, is approved by nearly four-fifths of the petitioners, by the board of supervisors, by a large majority of the elective county officers and gentlemen of the legal profession. A glance at the map of Montgomery county, and a knowledge of the number of inhabitants in the several towns, afford conclusive evidence of the expediency and propriety of the removal. The val-

ley of the Mohawk is the centre of population and business, and is the great thoroughfare of the county as well as the State. Every person cognizant of the influence which the canal has exercised upon the business relations of those counties through which it passes, must know that the commercial and legal business of such counties is transacted on its line. It is eminently so in Montgomery county.

The certificate of the clerk of the county, shows that of the 384 causes placed on the calender of the circuit since 1831, 335 originated in and came from the valley of the Mohawk and south of it.

Your committee believe that it would be impolitic and unjust to attempt to maintain the capital of the county of Montgomery four miles from one of the greatest thoroughfares on this continent, which is also the centre of the county. All agree that the removal ought to be made at some time, and your committee see no reason why the present is not the proper time. They have therefore unanimously come to the conclusion to recommend that the bill referred to them be passed into a law.

IN SENATE,

April 26, 1836.

REPORT

Of the select committee on the Commercial Bank investigation.

The select committee, appointed by a resolution of the Senate of the 16th of February last, to inquire whether any member of the Senate was concerned with the late Cashier Bartow, in his abstraction of the funds of the Commercial Bank, &c. submit their proceedings, the expose of the bank, the answer thereto of Mr. Kemble and Mr. Bishop, and the testimony which was adduced on the investigation, together with the following

REPORT:

It may, perhaps, be proper in the first place, to spend a few moments in an examination of the nature, extent and object of the jurisdiction which is conferred on the Senate by that clause in the constitution, which constitutes it the judge of the qualifications of its members. It was, doubtless, under the authority derived from this clause, that the committee were instructed to make the inquiry which was committed to them.

This power of judging, it is presumed, gives no authority to the Senate to supervise the talents, patriotism, or learning of any of its members, nor to prescribe any standard of religious or political opinion, or any particular grade of moral worth. With respect to these, and all other general qualifications, or disqualifications, the electors are the only judges; and although they may be sometimes deceived, yet the mischief is but temporary.

But every legislative body must have rules of proceeding in the transaction of its business, and to these rules it is indispensable that its members should conform. Of this conformity, the Senate is the only judge; and its existence, as a deliberative body, requires it to enforce, if necessary, obedience to its rules, and even to expel any member who might put its authority at defiance.

There is also a moral supervision which, of necessity, belongs to the Senate, and which, on all proper occasions, it is bound to exercise. If a member of this body should so far forget the duties of his station, as to prostitute his official acts to the purposes of private gain, or individual emolument, such a dereliction of official duty, when brought to the notice of the Senate, would call for a prompt examination, and if sustained, would require such reprehension as the character of the transaction might merit. Gross and notorious immorality also, which should indicate a palpable want of moral principle, such as would be calculated to tarnish the character of the Senate, and bring its acts into disrespect and contempt, would be a fit subject of examination and censure.

To legislate is the highest and holiest function, that man can delegate to his fellow man. Life, liberty, property, and the pursuit of happiness, are materially dependent on the integrity of legislation. Laws affect a whole community, and much of the respect and obedience which they inspire, arises from the purity of the source from which they are supposed to emanate. It is, therefore, of vast moment to the public morality, and to the general good, that every legislative body should preserve itself free from imputation or reproach. And should any of its members conduct in such manner, as to attach odium to their official associates, it is due to the community which they represent, it is sanctioned by immemorial parliamentary usage, and is required by the dictates of reason and justice, and the laws of self preservation, that they should shield themselves from imputed censure and reflected disgrace, by an open reprobation of the delinquents. But this supervision should never be exercised, except in cases which are distinctly marked with an obvious dereliction of moral principle. It is better to leave the ordinary delinquencies of public men to the correction of public sentiment, than to waste time in making an exhibition of venial frailties. It may, perhaps, be assumed as a safe position, that should a member of the Senate be guilty of such glaring immorality, or such official misconduct, as would produce a clear,

moral conviction that he would be condemned by his constituents, if put to the test of the ballot box, it would be the duty of the Senate in such case, in deference to public sentiment as well as out of respect to itself, to expel such member from his seat. This position is founded on the assumption, that the Senate ought to maintain a tone of moral feeling, as lofty and as pure as is maintained by the community which it represents.

If the foregoing suggestions are sound, they will furnish some guide to the committee and the Senate in the examination of the voluminous mass of testimony which is herewith submitted. In the judgment of the committee, much of the evidence has very little, if any, application to any matter of which the Senate should take cognizance.

The committee do not consider it their duty to inquire, whether any of the directors of the Commercial Bank may have been influenced by personal or political hostility, in their disclosure of a supposed connexion between their late cashier, Bartow, and Messrs. Kemble and Bishop, in the abstraction of the funds of the bank. Nor whether the suspicion or knowledge which some of the directors may have had last spring and summer, that Bartow was dealing more or less in stocks, ought to have shaken their confidence in his integrity, and put them on their guard. If the reliance of the board on the integrity of their cashier was too unbounded, the visitation for that indiscretion or apathy, has been severe. Nor is it of any moment, in the opinion of the committee, to examine minutely the purchases and sales of stocks, the losses or gains which their fluctuations produced, or to trace the late cashier through all the evolutions of stock gambling to his final catastrophe: And it is not, as the committee believe, legitimately within their province to inquire, whether there was such a connexion between Messrs. Bartow, Kemble and Bishop, as to make the two latter legally responsible to the bank for that portion of its funds which was drawn on their checks. It is not legal liabilities, but moral and official delinquencies to which the committee believe their attention ought to be exclusively directed.

The purity of modern and improved ethical science reprobates the position, that the end justifies the means, or the means the end. The committee do not, therefore, perceive the materiality of endeavoring to ascertain whether, in the purchase and sale of stocks, in which Messrs. Bartow, Kemble and Bishop were joint-

ly interested, money was or might have been made or lost. In a court of conscience, the moral character of any human transaction cannot be materially changed by the contingency of failure or success.

The committee will, as they have before intimated, omit to enter into a minute review of the great mass of testimony, and will confine themselves to a short commentary on such parts of it only as they deem material. They will also exclude from their consideration, every extraneous matter, whether of accusation or of exculpation, and confine themselves strictly to the evidence.

They would in the first place call the attention of the Senate to eight letters of Messrs. Bishop and Kemble, directed to H. Bartow, and found among papers which he left when he absconded. These letters will be found in the expose of the bank, and were admitted by Messrs. Kemble and Bishop to be genuine. From them it clearly appears, that Messrs. Kemble and Bishop were largely engaged in the purchase and sale of stocks, in which Bartow and they had a joint interest. To carry on these stock transactions, they drew on the Commercial Bank for large sums of money, which were paid by Bartow's directions; the amounts of which drafts are particularly detailed in the testimony of Mr. Lovett, the teller of the bank. There seems to have been some agreement, by which Messrs. Kemble and Bishop were to deal generally in any kinds of stock in the market, were to buy and sell, and draw on the late Cashier Bartow for the necessary funds. The nature and extent of the mutual interest which existed between Messrs. Kemble, Bishop and Bartow, in their extensive dealings, may perhaps be inferred from the letters of the two former; but of the exact time when the agreement creating this interest was made, the committee have found no proof, except that which is contained in the evidence of Mr. Bishop.

In the first letter of Mr. Bishop, dated the 25th of May, as the committee understand it, a loss which had been previously sustained or anticipated, in some stock transaction, is alluded to in the following words: "If we have been sucked, I extremely regret that it was not to a much greater extent." And in a postscript to the same letter, by Mr. Kemble, he apprised Bartow of large purchases of stocks already made, and to be made, and closes, by saying, "You need not fear that we are sucked." Mr. Kemble's reason for this assurance, seems to be found in his previous remark,

respecting one kind of stocks: that "Having about 175 shares, we design to buy up 1,000, or more, and, in alliance with ——— run it up." In Mr. Bishop's letter of the 26th of May, he informs Bartow, "We sold all our Harlaem, purchased and on subscription, yesterday afternoon, at 112 to 112½; to-day it is worth more, but it is a *damned bubble*. I would engage to sell, at 30 days, for 105; we have made money on it, and let others do better. I was especially induced to sell, as you seemed to be fearful of losing upon it, (from your letter,) We yesterday afternoon purchased 350 shares of Long-Island rail-road, at 102½ to 103, which, including 175 on subscription, is 525 shares. I would take 1,000 more at the same price," &c. Again, in the same letter, "I have been in hopes you would advise us of your opinion in reference to stocks, and instruct us to buy something; but you do not seem to be in a speculating mood." Again, "We got 100 more of Long-Island at 103, but it immediately advanced to 104, and so we are up as to that. We have now 625 shares, \$31,250. I think we shall make \$1,500 upon it."

In Mr. Bishop's letter of the 29th May, he informs Bartow, "I have barely time to observe, that we have drawn upon you for \$12,500; you must not be alarmed. We have the advice of the best financiers in this city, and although stocks are now depressed, rely upon a re-action."

In Mr. Bishop's letter of the 16th July, he says: "I observe from the newspapers, that the stocks in which we are interested, are rather low. I am willing to sell at present prices, if it is thought best by all concerned," &c.

In Mr. Kemble's letter of the 6th October, he writes to Bartow as follows: "The long wished for event has arrived. Long-Island has gone up, and may still go up or down, as we determine. I have negotiated day after day, and kept the business unfinished, until an impression has gone abroad in Wall-street, that a combination has been formed. But I have not pledged our stock; and it can now probably be sold at 105, and upwards, or a most excellent arrangement can be made, *to run it up*, and then dispose of it. Those who have been buying largely on time, are now in our power, and are willing now to come to almost any terms.

"I wish yourself or Mr. ———, to come down immediately, and have all our stock in hand, so that we can sell it if we think proper, or otherwise *ripen a combination*."

From the above extracts, the character of the business in which Messrs. Kemble and Bishop were engaged, by the aid of funds drawn from the Commercial Bank, is sufficiently obvious.

The frauds, concealments and false entry of Bartow, connected with the furnishing of these funds, are fully detailed by the testimony of Mr. Lovett, the teller. If the business in which Messrs. Kemble and Bishop were engaged, in joint interest with Bartow, was fair and honest, then they ought not, in the least, to be censured for the fraud and concealment which he practised on the directors of the Bank, in supplying funds to conduct it. But if the transactions in which they were engaged were of an opposite character, then it will be for the Senate to determine whether they are not morally responsible for the results which followed. It is believed to be a sound rule in morals, that he who acts against the dictates of conscience, is responsible for all the consequences of his conduct.

It can hardly be necessary to inform the Senate, that the letters of Messrs. Kemble and Bishop clearly prove that they were deeply concerned in stock-jobbing. Stock-jobbing is the buying and selling of stocks for the purpose of deriving gain from the fluctuations in their prices. And the arts which are resorted to in this business, to "run up," or to depress stocks, and the secret combinations which are sometimes formed, to control the market and extort money from those who have sold on time, render stock-jobbing, under such circumstances, one of the most hazardous and demoralizing species of gambling. The buying of stocks on time, is tantamount to a wager as to their price on a given future day. The investment of money or other property in stocks, may be an innocent transaction. But, observes Say, in his treatise on Political Economy, "When these transfers degenerate into stock-jobbing, that is to say, the making of a profit by the rise and fall of their price, they are productive of much mischief. In the first place, by the unproductive employment, on this object, of the agent of circulation, money, which is an item of the national capital; and in the next, by procuring a gain to one person by the loss of another, which is the characteristic of all gambling. The occupation of the stock-jobber yields no new or useful product; consequently, having no product of his own to give in exchange, he has no gains but what he contrives to make out of the unskilfulness or ill-fortune of gamesters like himself." Stock-jobbing is regarded as a

great immorality and evil in all civilized communities. The reckless spirit of gambling which it excites; the individual loss and ruin in which it occasions, and its demoralizing effects upon the young and thoughtless, by diverting them from the sober pursuits of industry, under the delusive hope of acquiring sudden wealth, have been long deplored. The gains of the few create the madness of the many; like the adventurers in a lottery, who are too intent upon the prizes to reflect upon the blanks.

In Europe, government stocks exist to an almost indefinite amount, and their variations in value are, for that cause, nearly beyond the control of individual management: changes of ministry and rumors of peace or war, are the ordinary causes of fluctuations in their prices. But in this country, where many stock companies, with comparatively small capitals exist, the game of stock jobbing becomes the more desperate, in proportion to the sudden elevations and depressions of price which individual fraud and art can produce.

The manner in which a combination in stock jobbing is secretly formed and matured, its design and end, and the contingencies with which it is beset, will be found in the testimony of Henry Lynch, a stock broker from the city of New-York. Such a combination is a secret and artful conspiracy to cheat, and would be an indictable offence at common law. And the committee exceedingly regret to perceive in the correspondence of Mr. Kemble, the expression of a willingness to enter into an alliance to "run up" stocks, and to "ripen a combination." Such sentiments uttered by a private individual, would receive the reprobation of the moral portion of mankind; but when avowed by a Senator, they assume, in the judgment of the committee, a much deeper shade.

Corporations or stock companies are created by acts of the Legislature: And will the community believe that acts of this description are fairly and honestly obtained, whilst members of the Senate are notoriously engaged in stock jobbing, with all its immoralities? Is not the conduct of Messrs. Kemble and Bishop, and particularly of the former, as detailed in the testimony herewith submitted, calculated by its example to relax the public morality, and by its tendency, to shake the confidence of the community in the purity of legislation? These are questions which deserve grave consideration.

At the last session of the Legislature a bill passed the Senate to repress the demoralizing practice of stock jobbing. This bill received no opposition in the Senate, but owing, as the committee understand, to a great press of business, was not finally acted upon in the Assembly. It had its third reading in the Senate on the 16th March, 1835, as appears by the Journal. One of the sections of this bill declared all contracts for the sale or transfer of stocks to be absolutely void, unless the party contracting to sell or transfer, should at the time be the owner or assignee thereof, and should actually be in possession of the certificate or other evidence of such stock. This provision was designed to prevent the combinations alluded to and described in the testimony. Another section provided, that all wagers concerning the price, present or future, of any stock, should be void. The object of this provision was to prevent the gambling purchases and sales of stocks on time. This bill provided, that all offences against it should be deemed misdemeanors, and punished by fine and imprisonment. A bill with the same provisions passed the Senate unanimously, in the early part of the present session. It provides that every offender against any of its provisions shall be deemed guilty of a misdemeanor, and shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one year, or both, at the discretion of the court; and all courts of oyer and terminer and general sessions are required to charge grand juries to inquire into offences against this act. The bill of the last session, as well as of the present, recognizes every offence against it as "*malum in se*," or in other words as involving conscious immorality, or as being a sin against light and knowledge. The declaration in the bill, that every offence against it shall be deemed a misdemeanor, and shall be visited by severe pains and penalties, will, it is believed, justify this inference. And it is deeply to be regretted that Messrs. Kemble and Bishop, so soon after its passing through the Senate, should have forgotten or disregarded its moral admonitions.

By recurring to the testimony of Henry Lynch, the stock broker for Messrs. Kemble and Bishop, it will be found that they purchased through him several lots of stock on time; that is to say, deliverable sometime after the purchase at the option of the purchasers. It will be for the Senate to determine whether members of its body, under the circumstances of the case, did not act under higher moral responsibilities, and render themselves obnox-

ious to more severe censures than would have been incurred by private individuals.

But there are other parts of the testimony which contain imputations of direct official misconduct. The facts and circumstances connected with the passage of the bill through the Senate, to increase the capital of the Harlaem rail-road company, are of this character. Such a connexion between Messrs. Kemble, Bishop and Bartow had been shown by the letters of the two former, and other testimony, that a majority of the committee were of the opinion that the declaration of Bartow, as to an understanding between him and them in relation to the passage of the said bill, in connexion with the proof of their having acted in accordance with such understanding, would be admissible testimony. The declaration before hand of the course which two Senators were, by an alleged arrangement, to pursue, would be either rendered probable as to its truth, or falsified by the event. It was on this ground that a majority of the committee believed the testimony ought to be received. But as the committee, after the question had been argued before them, were divided in opinion, they concluded that it would be the most discreet course to take the direction of the Senate. Under this direction, given by a vote of 23 to 6, they proceeded to hear the testimony.

The testimony of A. H. Lovett, the teller of the Commercial Bank, to this point, is as follows: He swears that in a conversation which Bartow, commenced with him by saying, that he meant to make some money out of the Harlaem rail-road stock, and while the bill was pending in the Senate, Bartow said to him; "I have an understanding with Messrs. Bishop and Kemble, and they are to raise such objections to that bill as to blind the eyes of the New-Yorkers until we have got things to suit ourselves, and then the bill will pass."

The testimony of John Townsend, president of the bank, is to the same effect, except that it does not implicate Mr. Bishop; but as respects Mr. Kemble, is strongly confirmatory of the testimony of the teller. He says in substance, that when the Harlaem rail-road bill was under consideration in the Senate, Bartow stated to him, that he had arranged with Mr. Kemble to make some movement to delay the passage of the bill that day; that he, Bartow, had entered into a speculation in the Harlaem stock, and meant to

[Senate No. 94.]

B

make money by it; that this made a strong impression on his mind at the time, and that he noticed in the *Argus* the next day, Mr. Kemble's speech, in fulfilment of what Mr. Kemble was to do, as stated to him by Bartow.

The remarks of Mr. Kemble against the bill, made on the 15th of April, in pursuance of Bartow's prediction, and reported in the *Daily Argus* of the 16th, and his vote two days afterwards for the bill; his declaration to J. B. Murray, that he only wished to delay the bill two or three days to get information from New-York; the advice given by him, on the day he made the attack on the bill, to John L. Schoolcraft on board the steam-boat, before it started for New-York, to purchase Harlaem stock if he wished to make money, and his declaration that the lobby members were then on board the boat going to New-York, under the belief that the bill would not pass, but that it would pass in a few days. The anxiety of Bartow, as manifested in his conversation with Augustus James, and in his letters to the same individual, and while the bill was pending, to purchase Harlaem stock, and his declarations that the bill was to be delayed, but was finally to pass, and that the New-Yorkers were to be blinded, afford a chain of circumstances, which, if they do not produce a conviction of an understanding between Messrs. Bartow and Kemble, manifest a most singular identity of knowledge and of views on the subject of the bill.

There is no testimony to show that Mr. Kemble was to receive or did receive any pecuniary advantage from the purchases of stock, which were made before the bill passed; but if there was a preconcert between him and Bartow, with respect to the course he was to pursue, there is very little difference in the coloring of the transaction, whether that course was for his or for Bartow's benefit, or for the benefit of any other individual. It is proven by the testimony of Messrs. Bloomfield and Warren, that the next day after his opposition to this bill, Mr. Kemble assigned as the reason of his opposition, that it had got ahead of a bill or bills of which he had charge. If this reason had been assigned in the Senate, and an effort made on his part to rectify any alleged derangement in the regular order of business, it would have been more satisfactory. It will be perceived also, that the reason assigned by Mr. Kemble to J. B. Murray, for his opposition to the bill, is wholly inconsistent with the above.

On the 13th of April, as appears by the Daily Argus of the 14th, the Harlaem rail-road bill was reported by the committee on rail-roads in the Senate, and Mr. Bishop moved to lay the report on the table; but on a suggestion from the chairman of the committee on rail-roads, that the Senate would be moved on that day to go into a committee of the whole on the bill, Mr. Bishop withdrew the motion. This appears to have been the only effort made by Mr. Bishop to delay the passage of the bill. Mr. Kemble's attack on the bill was two days thereafter. And it will be perceived, by recurring to the reports of the Daily Argus, that both Messrs. Kemble and Bishop interposed obstacles to the passage of the bill, as above stated; and it appears by the Journal that they both voted for its final passage on the 17th.

It is in proof that Augustus James, who had been pressed by Bartow to purchase Harlaem rail-road stock on their joint account, did purchase, in the city of New-York, 800 shares on the 14th and 15th of April, which he afterwards sold at a profit or nett gain of \$2,239.88; which sum he transmitted to Bartow by a check on the 27th April. On the 28th, the next day, Bartow drew his check on the Commercial Bank for \$745, and placed that sum to the credit of Mr. Bishop, on the books of the bank. This sum is \$1.62 less than the one-third of the profit, as above mentioned, which was made on the purchase and sale of the aforesaid Harlaem stock. Mr. Bishop has been requested by the committee to explain why and on what account that sum, at that time, was placed to his credit by Bartow; but no explanation has been given.

The declaration also of Bartow to M. H. Webster, while the bill was pending, that Mr. Bishop was interested with him in the Harlaem stock which A. James was going to purchase in New-York, is a circumstance of more or less weight, in proportion to the credibility which is due, under the circumstances of the case, to the assertion of Bartow.

On carefully examining all the facts and circumstances connected with the Harlaem rail-road bill, before and after its passage, the committee feel constrained to say, that there is strong ground for suspicion, if not for belief, that there was an understanding between Messrs. Kemble, Bishop and Bartow, as to the course which the two former pursued in relation to the passage of the bill, and that this course was adopted and pursued to enable Bartow, if

not others, to make money by purchases and sales of the stock to be created by that bill.

There is one other part of the testimony to which the committee will call the attention of the Senate: Mr. Schoolcraft, one of the directors of the Commercial Bank, testifies, that during the present session, and since the Commercial Bank presented its petition to the Legislature for an increase of its capital, Mr. Kemble held a conversation with him of the following tenor: Mr. Kemble told him that if the bank would come out and disclaim that they had any thing to do with the circulation of the reports that he, Mr. Kemble, had been deeply engaged with Bartow in his abstraction of the funds of the bank, that he, Mr. Kemble, would guaranty the passage of the bill which their petition asked for. The testimony of Mr. Schoolcraft stands unimpeached and unexplained, and the committee cannot therefore doubt but that this extraordinary proposition was made by Mr. Kemble, as stated.

If a member of the Senate could be supposed to possess a sufficient degree of influence to secure the passage of a law, yet such influence can hardly be deemed to be the legitimate subject of private barter. The offer to guaranty the passage of a law, in consideration of obtaining a disclaimer, does not, in the judgment of the committee, materially differ from a proposition to receive, for a like guaranty, a sum of money. In both cases the motive could be traced, with equal certainty, to a desire to subserve the gratification of individual wants, private convenience, or personal cupidity. Members of the Legislature, like other men, have various private wants; but to convert legislative influence into an exchangeable commodity, in order to gratify these wants, would shock the moral sense of the community. To exercise the functions of legislation under the influence of mercenary motives, would be a gross dereliction of duty. The making of laws should be characterised with as much purity as is required in their administration; for no better apology can be found for venality in legislative halls, than for corruption in courts of justice. The power which is delegated to the lawgiver, is superior to that which is confided to the judge; and in proportion to the magnitude of the trust, should its exercise be the more assiduously purified from the alloy of self-interest, and the more devotedly consecrated to the public good.

The committee have now adverted to such portions of the testimony as implicate the moral and official conduct of Messrs. Kem-

ble and Bishop, in such manner as calls for the notice of the Senate. Their connexion with Bartow in stock jobbing, which led to the abstraction of funds for this purpose from the Commercial Bank, cannot be regarded, under the circumstances of the case, in any other light than as grossly immoral.

There are strong reasons for believing, from the testimony of Messrs. Lovett, Townsend, Webster, Schoolcraft, James, and Murray, together with the reports of the *Daily Argus* at the time, when all the circumstances are carefully considered and compared, that the official conduct of Messrs. Kemble and Bishop, and particularly of the former, on the bill to increase the stock of the Harlaem railroad company, was pre-concerted with Bartow, for his private benefit, and probably for the benefit of some other individuals. The committee submit to the Senate, whether this charge is not established with reasonable certainty against Mr. Kemble, and with strong probability against Mr. Bishop. Men never call witnesses to their unlawful or improper acts; and it is, in general, only from circumstances that such acts can be inferred and established. If this charge is sustained by the testimony, the official conduct of Messrs. Kemble and Bishop, on the aforesaid bill, strongly merits the condemnation of the Senate.

The willingness, if not the desire, which is repeatedly expressed by Mr. Kemble, in his letters to Bartow, to form alliances to *run up stocks*, and his avowed readiness to "ripen a combination," indicate, in the judgment of the committee, such an abandonment of moral principle, as deserves severe reprobation.

The proposition of Mr. Kemble to one of the directors of the Commercial Bank, that he would procure the passage of such a law as was solicited by their petition, if the directors of that institution would come out with a disclaimer as to his being concerned with Bartow in abstracting the funds of the Bank, evinces, in the judgment of the committee, an utter disregard of official duty. If a member of the Senate should offer to pledge his own vote in favor of any pending application, on condition of his obtaining any object which might suit his own private convenience, such offer would be regarded as evidence of official corruption. And a proposition for a like consideration, to guaranty the votes of the members of both branches of the Legislature, can hardly be viewed as less revolting, unless the turpitude of the offer can be supposed to be merged in the wholesale character of the transaction.

If the proposition to hypothecate the vote of a single member, would compromit official purity, it is believed that an aggravation of the offence would be found in an extension of the pledge to the representatives of a whole community.

Having thus adverted to the prominent facts and circumstances which have been disclosed in the course of this protracted, laborious and painful investigation, the committee respectfully submit the whole matter to the final judgment of the Senate.

S. YOUNG, *Chairman.*

[For the documents accompanying the above report, see Senate Document, No. 95.]

STATE OF NEW-YORK

No. 95.

IN SENATE,

April 26, 1836.

DOCUMENTS

Accompanying the Report of the select committee on the Commercial Bank investigation.

Proceedings of a select committee of the Senate, relative to the abstraction of the funds of the Commercial Bank by the late cashier thereof, pursuant to the following resolution:

“STATE OF NEW-YORK, }
IN SENATE, *February 16, 1836.* }

“*Resolved*, That the petition of the directors of the Commercial Bank be referred to a select committee, with instructions to inquire whether any member of the Senate of this State was concerned with the late cashier of that institution in his abstraction of its funds, or his other frauds or peculations connected therewith, with power to send for persons and papers; and that Mr. Young, Mr. Lacy, Mr. Mack, Mr. Van Schaick and Mr. Livingston be said committee.

“By order.

“JOHN F. BACON, *Clerk.*”

The following expose was submitted to the committee by the Commercial Bank.

In the matter of an investigation ordered by the
Senate of the State of New-York, on the sub-
ject of the abstraction of the funds of the Com-
mercial Bank of the city of Albany, by the
late cashier thereof, and others.

COMMERCIAL BANK, }
Albany, February 23, 1836. }

Hon. SAMUEL YOUNG,
Chairman, &c.

SIR—The Board of Directors of the Commercial Bank, in compliance with your communication of the 20th inst. herewith re-
[Senate No. 95.] A

spectfully submit to you, and through you to the honorable the committee of investigation, the facts and documents which have induced the belief in the board, that certain members of the Senate were concerned and interested with the late cashier of this bank in extensive stock transactions, and that funds to a large amount were drawn from this institution upon the checks of those Senators, when they had no funds in the bank.

1st. As to the fact that certain members of the Senate were concerned and interested with the late Cashier Bartow in extensive stock transactions, the board beg leave to call the attention of the committee to the facts which occurred on the passage of the bill through the honorable the Senate, entitled "An act extending the time for completing the New-York and Harlaem rail-road, and for other purposes." It was generally supposed, and we believe is susceptible of proof by the directors of that company, that the value of the stock of that company, in a great measure, if not entirely, depended upon the passage of the above mentioned bill. The bill first passed the Assembly, and was reported to the Senate by the Hon. Mr. Edwards, on the 13th day of April, 1835, and was then committed to the committee of the whole, who, after spending some time upon it, rose and reported progress, and asked and obtained leave to sit again.—(See Senate Journal of 1835, pages 238 and 244.)

On the 15th day of April, 1835, the Senate again resolved itself into a committee of the whole upon this bill, when the Hon. John C. Kemble (then and still a member of the Senate,) made a speech against the bill, and moved to lay it on the table; when, after an amendment offered by Mr. McDowell, the committee rose and reported, &c.—(See Senate Journal of 1835, p. 254, and for Mr. Kemble's remarks, see the Argus of 16th April, 1835, which is herewith submitted.) The remarks alluded to are published in these words:

"Mr. Kemble could not imagine why so much haste was exhibited in the passage of this bill. It came before the Senate on Monday, and no business was transacted here yesterday. To-day an effort is made to push it through, in despite of efforts to stay it that it may be examined. He had moved to rise and report, and his object now in taking the floor, was to renew that motion. He recollected something of the origin of this road. It had been publicly asserted that it had a Jewish origin; that it was begotten by a Jew, by him baptized, and then by him sold for many thousand ducats. Whether such were the facts, he would not pretend positively to affirm; but he believed that there was some truth in them."

On the 16th of April, the Senate again went into a committee of the whole upon the same bill, and rose and reported the same with amendments.—(See Senate Journal, page 254.)

On the 17th of April, 1835, the bill received its third reading, and passed unanimously: Mr. Kemble and Mr. I. W. Bishop voting in the affirmative.—(See Senate Journal of 1835, p. 266.)

An original document hereto annexed, marked A, was found among the papers of the late cashier, after he had absconded.—This document, which is an account of purchases and sales of the

Harlaem rail-road company made by Mr. R. H. Winslow, a broker in New-York, employed for that purpose, shows that on and previous to the 25th of April, 800 shares of that stock was purchased in the name of Mr. Augustus James of this city.

The purchase of this stock was in fact made on the 14th and 15th days of April, 1835, to wit: 300 shares on the 14th, and 500 shares on the 15th day of April, the last of which was two days before the bill passed the Senate. This fact, it is supposed, can be proved by the testimony of Mr. Augustus James, as he has so stated to the board.

Before the final passage of this bill in the Senate, and while Mr. James was in New-York purchasing the Harlaem stock, the late Cashier Bartow stated to Mr. Lovett, the teller, that he (Bartow) had an understanding with Messrs. Bishop and Kemble, and that they were to raise such objections to the bill, as to blind the New-Yorkers until they (Bartow, Bishop and Kemble,) got things to suit themselves, and then it should pass the Senate. Bartow also, at the same time, read to Mr. Lovett extracts of letters from him to Mr. James, urging the purchase of more stock. It is also supposed that Mr. Nevins of New-York can produce one or more letters from Mr. Bartow on the same subject.

On the morning of the 16th of April, 1835 Mr. Bartow received by the steam-boat, information that 800 shares of this stock had been purchased. It will appear by the document marked A, that there was a profit or speculation made upon those 800 shares of Harlaem stock of \$2,239.88.

(A.)

<i>Dr.</i>				<i>Cr.</i>	
Augustus James in acc't with R. H. Winslow,					
1835, Ap'l 24,	To p'd for 300 Harlaem, at 92,	13,800			
	¼ brokerage, \$34.50,		\$13,834 54		
"	"	To p'd for 9 days interest on above,.	20 70		
"	Ap'l 25,	" " 50 Harlaem, at 91½	\$2,293 75		
"	"	" " 50 " " 91½	2,293 75		
"	"	" " 100 " 91½	4,587 50		
"	"	" " 100 " 91½	4,587 50		
"	"	" " 100 " 91½	4,587 50		
"	"	" " 100 " 92	4,600 00		
			\$22,950 00		
Add ¼ bro.			57 38		
				\$23,007 38	
Check to balance,				2,239 88	
				\$39,102 50	

Cr.

1835.

April 24, By 100 s. Harlaem sold at 98,		
\$4,900, less $\frac{1}{2}$ bro. \$12.25, ..	\$4,887 75	
" " By 100 s. Harlaem sold at 98,		
\$4,900, less $\frac{1}{2}$ bro. \$12.25, ..	4,887 75	
" " By 100 s. Harlaem sold at 97 $\frac{1}{2}$,		
\$4,887.50, less $\frac{1}{2}$ brokerage,		
\$12.22,	4,875 78	
" 25, By 100 s. Harlaem		
sold at 98,	\$4,900 00	
" " By 200 s. Harlaem		
sold at 98 $\frac{1}{2}$,	9,812 50	
" " By 100 s. Harlaem		
sold at 98,	4,900 00	
" " By 100 s. Harlaem		
sold at 98,	4,900 00	
	\$24,512 50	
Less $\frac{1}{2}$,	61 28	
	\$24,451 22	
		\$39,102 50

Errors and omissions excepted.

New-York, April 25, 1835.

R. H. WINSLOW.

On the 27th day of April, 1835, this account of the purchase and sales of this stock was transmitted to the late Cashier Bartow, together with the check for the \$2,239.88, being the nett proceeds or profits upon the sale of said stock, which sum was on that day, by him or by his directions, placed to his credit in his account with the Commercial Bank.

Mr. James has stated to the Board, and it is presumed will so testify, that he was to receive only one-third of said profits from Mr. Bartow.

On the 28th day of April, 1835, the late Cashier directed to be placed to the credit of the honorable Isaac W. Bishop, (then and still a member of the Senate,) the sum of \$745. This sum was thus transferred to Mr. Bishop's credit, by means of a check drawn by the said late Cashier Bartow, of that date and for that amount, which is hereto annexed, marked B.

"No.

Albany, April 28, 1835.

Commercial Bank,

Pay to Utica Stock, or Bearer, seven hundred forty-five T T T
Dollars.

H. BARTOW."

\$745 T T T

This sum of \$745, is less only \$1.62 than the one-third of the profits made upon the purchase and sale of the said stock as above

mentioned, and the board have supposed and believed from these circumstances, that the same was Mr. Bishop's share of said profits, and that it was received by him as such.

When the foregoing facts and circumstances are taken in connexion with the letters from Mr. Bishop and Mr. Kemble, addressed to the late Cashier Bartow, and found among his papers, which are hereto annexed, and numbered from 1 to 8 inclusive; and when taken also in connexion with the facts disclosed in the subsequent branches of this expose, the board submit to the honorable the committee, that they furnish strong, if not conclusive evidence, that Mr. Bishop and Mr. Kemble were concerned and interested with the late Cashier Bartow in extensive stock transactions.

The evidence of Mr. Edmonds' connexion in these stock transactions will be hereafter stated.

Letter (No. 1) without any post mark.

"New-York, May 25, 1835.

"DEAR BARTOW—Your favor has been rec'd, and I only have to say, that 'if we have been sucked,' I extremely regret that it was not to a much greater extent. *Harlaem is quick* to-day at 111, and the Morris will be up. I think I shall come to Albany to-morrow evening. James is here but has done nothing.

"We have about 20 thousand dolls. of Berkshire. *Edmonds*, yourself and me. Kemble, I suppose, does not expect this, as it was a previous arrangement.

"We have 175 shares of the Long-Island, which was sold this day at 103, and will advance. We have also 70 shares of Harlaem on subscription, and have 10 thousand dollars of the Wash. and Saratoga. We might have gone into other matters, but supposed for the present, that *prudence was the better part of valor*. It is sufficient to say, that what we have done, has been well done.

"Truly yours, &c.

"ISAAC W. BISHOP."

"Long-Island rail-road will be delivered on Thursday. Delafield has obtained 2,000 shares. We have been advised by him, that it is a *good* and *safe* article. Having about 175 shares, we design to buy up 1,000 or more, and, in alliance with Delafield, *run it up*. We have also bought 20 shares of Planters' Bank of Tenn. The knowing ones say it *must advance*. For this we paid cash. You need not fear that we are sucked.

"KEMBLE."

Letter (No. 2) without any post mark.

"New-York, May 26, '35.

"DEAR SIR—We have been successful in purchasing in the Long-Island rail-road. We have paid from 102½ to 104½. It is now, 3 o'clock P. M., selling at 105 and 105½. Delafield holds \$100,000 of it. He told me that he knew where more than \$900,000 was, *which would not be sold*. He says he should refuse 110. Olcott

and Porter are here, dipping into the Utica. I have just seen an order from Corning of your city for 600 shares, at 128½, but he will not get it.

"The news from France has put every thing upon the *qui vive*. Exchange on England has declined, and every description of property has gone up. It is a general opinion that things will grow in value, for 30 or 60 days *at least*.

"We sold our Harlaem at 112 and 112½. I was of opinion that we should do well to hold on a day or two, but Mr. B. differed with me on that point, and I gave way.

"There is a project on foot to get the Rensselaer and Saratoga rail-road into market here. Seymour, of the Farmers' Loan Insurance company, and Delafield, are working slyly. If they go on as I think they will, they will run it up as they run up the Saratoga and Washington. I can get, I think, some 40 or 60 shares, and it seems to me to be a sure object. Bishop thinks so too, and has asked your opinion in his letter of this date. The bridge will pay 7 per cent on the whole capital of the company.

"Please let me hear from you.

"In haste, your obd't serv't,

"JNO. C. KEMBLE.

"H. BARTOW, Esq."

Letter (No. 3) post marked at New-York, May 26.

"New-York, May 26, 1835.

"Dear BARTOW—We sold all our *Harlaem*, purchased and on subscription, yesterday afternoon, at 112 to 112½ *cash*. To day it is worth more, but it is a *damned bubble*. I would engage to sell at 30 days for 105. We have made money on it, and let others do better. I was especially induced to sell, as you seemed to be fearful of losing upon it, (from your letter.) We yesterday afternoon purchased 350 shares of the Long-Island rail-road, at 102½ to 103, which, inc. 175 on subscription, is 525 shares. I would take 1,000 more at same price, but think we cannot get them to day, as the French news has imparted a new vigor to every thing. Seton and Webster, *jointly*, only had 15 shares assigned to them. Seton is *ferocious*, and says, by G—d he will never do "a clever thing" again for such heartless scoundrels. *By the by*, orders have been received from Albany to day to buy 500 shares of *Utica* at 129. Whose work is this? I have been in hopes you would advise us of your opinion in reference to stocks, and instruct us to buy something, but you do not seem to be in a speculating mood. The sales of the board have just closed. We got 100 more of Long-Island at 103, but it immediately advanced to 104, and so we are up as to that. We now have 625 shares, \$31,250. I think we shall make \$1,500 upon it. Stocks are all firm to-day, and I believe will be better to-morrow.

"Yours truly,

"ISAAC W. BISHOP.

"P. S. Kemble desires me to request you to write whether we had better buy Rensselaer and Saratoga *at par*. Delafield is pur-

chasing, and it is believed that it will soon be brought into market under favorable circumstances. There is now none here for sale, but Kemble thinks he can purchase through some friends in Troy. Delafield is now buying at Troy."

Letter (No. 4) without any post mark.

"*New-York, May 29, 1835.*

"DEAR BARTOW—I designed to come up this afternoon, but have decided to *remain until to-morrow*. I have barely time to observe that *we have drawn* upon you for \$10,500. You must not be alarmed. We have the advice of the best financiers in the city, and although stocks are now depressed, rely upon a *reaction*. One of us will *certainly* be up on Sunday morning, when we will give you a full account of our doings.

12,5

"Truly,
"ISAAC W. BISHOP."

Letter (No. 5) without any post mark.

"*Sunday morning.*

"DEAR SIR—I arrived from New-York this morning, and I would come to your house, but I am sick and worn out. Will you do me the favor to call at the City Hotel, when I will apprise you of all. I also want your advice, &c.

"Truly yours,
"ISAAC W. BISHOP.

Directed, "H. BARTOW, Esq., Present."

Letter (No. 6) post marked Granville, July 17.

"*Granville, July 16, 1835.*

"HENRY BARTOW, Esq.

"My Dear Sir—I observe from the newspapers, that the stocks in which we are interested are rather low. I am willing to sell at present prices, if it is thought best by all concerned, but I really hope that the prospect ahead will justify us in holding on. I have some confidence in all, *except the Berkshire*.

"Write me by return mail your opinion upon these matters, as I *feel a deep anxiety upon* the subject: Also the result of the Utica stock, which Hoyt was to deliver.

"Truly yours,
"ISAAC W. BISHOP.

Directed, "HENRY BARTOW, Esq., Cashier, &c. Albany, N. Y."

Letter (No. 7) post marked Granville, July 29.

"*Granville, July 28, 1835.*

"DEAR BARTOW—I wrote you some time since, requesting your answer, since which I have not had the pleasure of receiving a communication from you. Will you do me the favor, by return mail, to write me your views in reference to our stocks, &c. I see

all stocks have an upward tendency. I am in hopes we shall realize a handsome advance upon our Long-Island.

"Truly yours.

"ISAAC W. BISHOP."

Letter (No. 8,) without any post mark.

"*New-York, Oct. 6, 1835.*

"MY DEAR SIR—The long wished for event has arrived. Long Island has gone up, and may still go up or down as we determine. I have negotiated day after day, and kept the business unfinished until an impression has gone abroad in Wall-street, that a combination has been formed: But I have not pledged our stock, and it can *now* probably be sold at 105 and unwards, or a most excellent arrangement can be made to run it up, and then dispose of it. Those who have been buying largely on time, are now in our power, and are willing now to come to almost any terms.

"I wish yourself or Mr. Webster to come down immediately, and have all our stock in hand, so that we can sell it if we think proper, or otherwise ripen a combination.

"Alexander Hamilton has made propositions to me in this matter, which I like very much; and I have promised that you or Mr. Webster and myself will hold an interview with him on Thursday. Do not, I beseech you, fail to come.

"Yours truly,

"JNO. C. KEMBLE.

"H. BARTOW, Esq."

2d. As to the fact that funds to a large amount were drawn from this institution upon the checks of Mr. Bishop, Mr. Kemble and Mr. Edmonds, for the purpose of carrying on these stock transactions, when those gentlemen had no funds in the bank.

The letters of Mr. Bishop and Mr. Kemble, above referred to, shew that they had drawn largely upon the late cashier, for funds to carry on their stock transactions.

During the months of May and June, 1835, the checks of Bishop and Kemble upon this bank, were paid at the bank, amounting to \$26,644.93, which the bank have been unable to trace and identify. These checks are not now, and never have been, under the control of the board, and never came to the knowledge of the board until after Mr. Bartow absconded.

These checks, and it is supposed others also, were kept from the knowledge of the board of directors by the following means.

When the checks were paid, they were not charged to the account of either of these gentlemen, but the teller and clerks were directed by the cashier to keep them in the drawer as cash. Some of those checks came through other banks to this bank.

Bartow left Albany on the 30th September, 1835, and has never returned.

On the 28th or 29th of September, Bartow made a false charge on the books of this bank, against the Bank of America, of \$53,644.93, as cash in deposite in that bank, to the credit of this.

This amount was in part composed of the above mentioned checks of Bishop and Kemble, of \$26,644.93; and whether any greater portion of the amount so charged to the Bank of America, was composed of the checks of those gentlemen, the bank have been unable to ascertain, as the checks, or the evidences of the items composing this charge, were, by Bartow's direction, taken out of the drawer and sealed up, and put into a tin box containing the discounted bills of the bank, and were afterwards abstracted therefrom by him. These facts can be proved by Mr. Lovett, the teller of the bank.

In addition to this, Mr. Kemble had, during the spring and summer of 1835, drawn from this bank, and which was charged to him on the books of the bank, \$5,078.27, which he had no funds in the bank to meet. This balance remained against him on the 11th September, 1835; since which time he has paid \$97.63, by a note of that amount left for collection, which leaves the balance now standing against him, of \$4,980.64, on the *books* of the bank. This balance can be proved by the books of the bank, and the checks of Mr. Kemble now in our possession, drawn upon the bank in the usual form of drawing checks upon the bank when the drawer had funds.

It is proper, however, to state that this balance appearing upon the books of the bank, is composed in part of a check of which the following is a copy.

“*New-York, Sept. 7, 1835.*”

“\$1,000. Cashier of Commercial Bank, pay to E. Patterson, or order, one thousand dollars.

“JNO. C. KEMBLE.”

This check is endorsed by Mr. Patterson, and came to this bank through some other bank, and was paid at this bank.

Mr. Kemble, on an interview with a committee of directors in October last, stated that this check was drawn on the Commercial Bank of the city of New-York, and that he had funds there to meet it. Two of that committee, to wit: Mr. Benedict and Mr. Van Benthuyzen, went to New-York that evening in the steamboat, and as soon as the Commercial Bank of that city was opened in the morning, presented that check, and was told by the officers of that bank, that it was not good, and the same was accordingly protested for non-payment. The teller of that bank also informed the said members of the committee, that said check would not have been good at that bank at any time subsequent to its date.

The board of directors here beg leave to state, that during all these transactions, and while Mr. Bishop and Mr. Kemble were drawing thus largely upon this bank, they not only had no funds in the bank to meet those drafts, but were themselves of no personal pecuniary responsibility, or at least of but very little, if any, and none of the directors of this bank would have given them any credit upon their own responsibility.

On the 5th of May, 1835, Mr. John W. Edmonds drew a check upon this bank, of which the following is a copy.

"Albany, May 5, 1835.

"Commercial Bank of Albany, pay to F. W. Edmonds, Esq., cashier, or order, five thousand dollars.

"\$5,000.

J. W. EDMONDS."

Upon which check are the following endorsements.

"Pay T. W. Olcott, Esq., cashier, or order.

"F. W. EDMONDS, Cashier.

"E. OLCOTT, Teller."

And in Bartow's hand writing, the following.

"Received one thousand on the within check May 9th, 1835."

Prior to the last endorsements being made, this check was presented by the Farmers' & Mechanics' Bank of this city to, and the whole amount thereof, \$5,000, paid by, the teller of this bank, by the direction of Mr. Bartow, Mr. Edmonds at that time not having any funds in the bank to meet it, and never having had any account there.

Since which time the teller has received from Mr. Bartow \$2,600 upon said check, who then also directed the teller to charge the balance of said check, being \$2,400, to his, Bartow's account; but Bartow himself, at that nor no subsequent period, had funds in the bank to meet it.

Mr. Edmonds admits his liability to pay the balance due upon this check, although he claims that he has settled, or nearly settled the amount of it with Mr. Bartow.

The paper hereto annexed, marked C, is the account which he has given the bank of this transaction.

The paper hereto annexed, marked D, is also submitted, but the board have thus far been unable to ascertain, satisfactorily, in whose hand writing the last mentioned paper is. It was found among Bartow's papers after he had absconded.

The whole amount of funds which have been abstracted from the bank, including the above mentioned drafts, or checks, and including a note of Bartow's of \$10,000, amounts to \$142,548.61. This can be proved by Mr. Lovett, the teller.

These funds must have been taken from the bank with the knowledge and assent of the late cashier, but the board have no knowledge whether the gentlemen above mentioned have been in any manner accessory to it, otherwise than is above stated.

C.

1835, May	My check,.....	\$5,000 00
	A few days afterwards gave	
	Bartow my brother's check	
	for money not used,.....	\$1,000 00
	Carried forward,	\$1,000 00 \$5,000 00

	Brought forward,....	\$1,000 00	\$5,000 00
1835, In June.	Delivered to Bartow the scrip for stock standing in my brother's name, 170 shares, on which 10 per cent was paid,	850 00	
June 30.	Sent him my check for	1,600 00	
	Scrip for stock distributed to him, 60 shares,	300 00	
	do for 100 shares standing in my name,.....	500 00	
	147 shares which I bought for him at 5 per cent advance,	352 50	
			<u>4,602 50</u>
	Bal. due from me,		\$397 50

I have his letter of the 2d July, acknowledging the receipt of the \$1,600, and the 227 shares sent him; and my check for the \$1,600 was on the Hudson River Bank, and when paid at the bank had the following endorsements.

30 June. H. Bartow,
Rec'd H. Bartow, Cr.
P'r Wm. Nettle.

D.

Stock ac. H. B. & al.	I. W. B. & J. W. E.	
Berkshire & Hudson, 60 shares, H. B....	3,000	
do do		
Planters' Bk Tennessee, 20 sh.....	2,000	
Harlaem & N. Y. R. R. 70 sh.	3,500, sold 112 to 1124	
do do do		
Wash. & Saratoga,	10,000	
Long-Island R. R. 175 sh.	17,500	
" " " 350 " 1024 to 3,	35,000	
" " " 100 " 103,.....	10,000	

The board have thus given, to the honorable the committee, a statement of the facts, in relation to this transaction, which have come to their knowledge, together with the means of that knowledge, and the proof by which the same can be sustained: and they respectfully submit that those facts are sufficient to warrant the belief entertained by them, and which they stated to the committee in their communication of the 19th inst., to wit, that certain members of the Senate were concerned and interested with the late cashier of this bank, in extensive stock transactions, and that funds to a large amount were drawn on the checks of those Senators from this institution, when they had no funds in the bank.

JOHN TOWNSEND, *President*.

Mr. Kemble submitted the following answer to the committee:

Albany, 1836, Feby. 29.

TO HON. SAMUEL YOUNG,
Chairman, &c.

DEAR SIR.—I take the earliest opportunity to answer the statements and documents furnished your committee, by the Commercial Bank of Albany, designed to implicate me in transactions with Henry Bartow, late cashier of that Bank. Involving my official character and my integrity, as an individual, I must protest at this period in this matter against any admissions of the assertions, or confessions of the said Bartow, as evidence. He has been proclaimed by the bank as an individual who has committed gross and premeditated frauds; and any statements which he may have made, tending to implicate the character of any individual, deserves to be recognized as unworthy the least consideration.

In regard to the averment of the bank, that I was, in some manner directly or indirectly connected with said Bartow, or had an agreement or understanding with him, concerning or having reference to the bill entitled "An act extending the time for completing the New-York and Harlaem rail-road, and for other purposes," I interpose a full, broad and unequivocal denial. I had no knowledge that Mr. Bartow, or Mr. Augustus James, or any other person was buying or selling the stock of that company, when I moved in committee of the whole, upon the bill relating to it, that the committee rise and report, and when I made some remarks in aid of that motion, against the bill and its original. Nor was that motion or those remarks made with reference to the stock of that company, its purchase or its sale.

On Saturday, the 11th day of April, 1835, in the afternoon, I left this city, and went to Troy. I remained there until Wednesday the 15th day of April, when I returned to my place in the Senate, about 10 o'clock, A. M. The Senate Journal, of 1835, from page 238, to page 247, will show that I was absent upon the several questions on which a division was taken from the 11th to the 15th of April. I knew not, when I left Albany on the Saturday previous, that the Harlaem rail-road bill had passed the Assembly. It was not at that time, before the Senate. On the following Monday it was reported to the Senate. The first knowledge I had that it was in the Senate, was its annunciation from the chair, on Wednesday, as the "unfinished business of yesterday." I knew that this bill was one of the latest of the rail-road bills, reported in the Assembly; that it was on the general orders in that House, far behind the Troy and Schenectady and several other rail-road bills; and I was surprised to discover that it had been jumped over them all, and had found its way into the Senate; and that there too, it had been placed in advance of all the general orders, and unfinished business.

For some time anterior to this period, the Troy and Berkshire rail-road bill, in which I felt a deep interest, had remained among the unfinished business in the Senate, or stood at the top of its general orders. I was displeased as well as surprised that a local bill, like the Harlaem, should have been galloped over bills of at

least equal merit; and I moved that the committee rise and report. Objections were made by several Senators, and a disposition was evinced to hurry the bill through at once. Observing these indications, I made some severe remarks against the character and objects of the Harlaem rail-road company, which were briefly reported in the newspapers. I had no reasons for my course on that occasion, other than those I have given.

In the afternoon of that day, I returned to Troy; early in the morning of the day following, and before the usual hour of breakfast, Stephen Warren, Esq. of Troy, called at my boarding-house, and informed me that a gentleman by the name of Bloomfield, had come up from Albany, and desired him, (Mr. Warren,) to call and see me, and ascertain what my objections were to the Harlaem rail-road bill. I then stated to Mr. Warren my reasons for moving to rise and report substantially as I have herein before related them. And I refer to Mr. Warren for the correctness of this relation, in all its parts; as well to the positions of the several bills I have named, in their relation of business in the two Houses, as to the reasons which I then assigned to him for the course I had taken.

I solemnly declare that I had not, at any time, any conversation, or understanding, or agreement with Henry Bartow, or with Hon. Isaac W. Bishop, or with any other person, as to the course which I should take upon said bill.

I further solemnly declare that I never had with Henry Bartow, directly or indirectly, any dealings or transactions in stocks, during the session of the Legislature of this State; and I have no knowledge or recollection that I had any connected interest, of any kind whatsoever, with said Bartow, previous to the adjournment of the Legislature.

Dates in this matter are material. The committee will observe that Mr. James purchased, as the bank alleges, 800 shares of the Harlaem stock, on the 14th and 15th days of April. When this fact is compared with the fact that I was absent from Albany from the 11th to the 15th, it will be difficult to imagine how Mr. James could have gone to New-York, on the 13th, and purchased on the 14th and 15th upon my action in the Senate of the 15th.

In regard to the charge of the Bank, that I was extensively connected with the said Bartow in stock transactions, I answer,

That I have on all proper occasions, and to all persons, admitted that I was connected with said Bartow in the purchase and sale of certain stocks during the months of May and June, 1835. The wisdom of such a connexion is not now a matter of inquiry. At that period, however, the reputation of said Bartow, as a financier, and as a man of integrity and probity, was unimpeached, in this community. For the truth of this, I appeal to any of the respectable citizens of this city, and more especially, to the directors of the Commercial Bank. He was then supposed, by many gentlemen whom I regarded as good judges, to be worth from 80 to 50,000 dollars.

Early in the month of May, Mr. Bartow came into my room at

the City Hotel. We had both boarded at that Hotel for two successive winters, and had been, during that time, on intimate terms of mutual personal friendship. I regarded him as a gentleman of unusual mental qualities, as a warm and faithful friend, and as a man of high and chivalrous notions of honor. I did not believe him capable of a dishonorable or mean action. He informed me that he had been fortunate in several stock speculations, and that he had 40,000 dollars, or wished to invest 40,000 dollars in some kind of stocks which would be likely to rise; and he said he wished Mr. Bishop and myself to help him. I promptly replied that I would cheerfully render him any service in my power. He inquired if I were going to New-York after the adjournment of the Legislature, and on being told that I should go there soon after, he left my room.

In a few moments he returned in company with Mr. Bishop, and then informed us that he had received intelligence that the Long-Island rail-road company, whose stock was about to be distributed, was likely to become a first rate rail-road stock to buy and keep; that Mr. Delafield, cashier of the Phenix Bank, Ex-Governor Throop, John L. Graham, Esq. and others, were taking hold of, or going into it, and he did not doubt it would be prime stock; that he was not enough acquainted with those gentlemen to make inquiries of them, and he wished us to go and call on them and learn what we could, and let him know it.

On the day of the adjournment of the Legislature, I returned home to the city of Troy. In a few days afterwards, I went to the city of New-York, and there finding Mr. Bishop, we called on Mr. Delafield, and made the inquiries above suggested. We informed him that we did so at Mr. Bartow's request, and stated his (Bartow's) object. The answer and advice of Mr. Delafield was communicated to Mr. Bartow. By his direction we went into market and purchased as much Long-Island rail-road stock as could be obtained below a given premium. He had directed us to draw on him for the money on the several purchases, as it might be required, and had given us the *form of the drafts*, which we were to draw. As a remuneration for our time and expenses, he had offered us a commission on the business we might do for him, or a portion of the net profits. Accordingly we purchased 2,400 shares of stock in the Long-Island rail-road company, and a few shares of stock of some other companies; drew on Mr. Bartow for the cost thereof, had the stock transferred to him, and sent him the scrip. These transactions occurred during the latter part of May and the early part of June. After that period I had no stock transactions with Mr. Bartow.

In regard to the charge made by the Bank, that "funds to a large amount were drawn from that institution upon checks signed by me when I had no funds there," I answer,

'That I never have, to my knowledge, drawn one dollar from said Bank, when I had not funds there. The drafts to which the Bank, in its statement, alludes, were not, as I understand the matter, drawn upon the Bank, nor "in the usual form of drawing drafts,

when the drawer has funds." On the contrary, they were drawn upon the cashier of said Bank, in the form in which a bill of exchange is usually drawn. They were made payable to drawer, and *endorsed* by him. I appeal to the drafts themselves, as well those which are charged to my account, as to the others, or any others having my name attached to them. And I appeal to the letters which the Bank has furnished, as going to show that those checks were designed as drafts upon Mr. Bartow, the cashier of the Bank, and not upon the Bank itself. And I further answer, that stock to the full amount, and more than the full amount of all those drafts, were sent to the said Bartow as the avails of such drafts; and this I am ready to shew. And I further solemnly declare, that I had no knowledge, or belief, or suspicion, or cause to believe or suspect, that in the acceptance and payment of such drafts and bills of exchange, the said Bartow was using in any manner, the money of the Bank, or of any person, other than his own. Nor had I any knowledge or suspicion that any draft or bill of exchange had been charged to me on the books of said bank; or that I was indebted upon said books one dollar, more or less, for any drafts or checks, until many days after the said Bartow had absconded. On the contrary, I supposed that a balance upon the books of said Bank would be found in my favor; and if it be not so, I affirm that error or fraud has been practised on said books, or in relation to my account and indebtedness thereon.

As to the statement of the bank concerning a check which was drawn by me upon the Commercial Bank in the city of New-York, for one thousand dollars, and which is now charged upon the books of the Commercial Bank of Albany, I answer,

That on the first of September last, I had agreed to pay to a gentleman in the city of Troy, one thousand dollars; that I made a deposit in the Commercial Bank in New-York preparatory to the payment of such money; that I went from New-York to Poughkeepsie early in said month, and there met Elias Pattison Esq., of Troy, who had authority to receive from me said sum of 1,000 dollars. I then and there drew my check on the Commercial Bank of New-York, and gave it to Mr. Pattison. On his return to Troy, Mr. Pattison deposited said check in the Farmers' Bank in said city. Said bank transmitted said check in its exchange funds to its account bank in Albany, as so much New-York funds. How or why that check was stopped in Albany I know not. I never knew that it had not reached the Bank upon which it was drawn until about the middle of October.

In regard to the insinuation of the bank that this check was not good at the bank upon which it was drawn; and the statement of two of its directors that the teller of the Commercial Bank of New-York said that my account was not "good for that amount and never had been," I submit the answer which follows, together with the letter of George D. Strong, Esq., president of said bank.

I had kept an account with the Commercial Bank of New-York several months previous to the drawing of said check, and on or

about the first of September I called at said bank, and requested of the president a loan or discount upon some paper which I then presented to him. He consented to grant my request, but said he wished I could wait a day or two. I informed him that I wished to send 1,000 dollars to Troy, if I had opportunity. He then said I might draw on his bank for that sum, if I had occasion to do so, and he would place the discounts to my credit in a few days, which he did. I accordingly drew as before recited. I refer to his letter, and my account with his bank, herewith communicated. By that account it will be seen that more than 1,000 dollars as a balance, continued in that bank, to my credit, and subject to my draft from the day of the date of the entry of those discounts until the 12th day of October—13 days after the absconding of Mr. Bartow; and that a final balance of more than 500 dollars remained there until the 21st of October.

I have only to add, in conclusion, that I am prepared to answer any matters, on oath, which the committee may think proper to call upon me so to do.

Very respectfully,

JNO. C. KEMBLE.

Mr. Bishop submitted the following answer to the committee:

Albany, Feb'y 29, 1836.

To the HON. SAMUEL YOUNG,

Chairman, &c.

DEAR SIR—The following statements and references, constitute the answer of Isaac W. Bishop to the statements and documents produced by the Commercial Bank of Albany, pretending to implicate him as connected with the frauds, peculations, and abstraction of their funds by their late cashier, Bartow:

As a preliminary suggestion I protest that the statements, confessions or acts of Bartow, who has been condemned by all mankind as a criminal and a deliberate villian, should not in the slightest degree operate to my prejudice, or be relied upon as testimony; or further that the abstract proposition, that I was engaged with Bartow in the purchase of stocks, furnishes any evidence of moral or official guilt.

As to the innuendo, or rather assertion, that I was concerned with Bartow in the purchase of Harlaem stock during the pendency of the act to increase the capital of that company, and that my course upon the passage of that bill was dictated by improper motives:

It is perhaps at this time unnecessary to refer particularly to the discordant materials and crude suspicions from which such an inference and such a sweeping conclusion is drawn. But it is perhaps proper to state generally, that I never upon any occasion, either directly or indirectly, had any arrangement, agreement or understanding with Bartow or any other person or persons, in the purchase or sale of said stock, previous to the adjournment of the

Legislature, or any understanding with Bartow, or any other person or persons, to retard or accelerate the passage of said bill, except that Lorenzo Hoyt, counsellor at law, then of the city of Albany, now of the city of New-York, who was a particular and intimate friend of mine, spoke to me upon the morning the said bill was first called up for its final passage, and earnestly desired it to be delayed, as a serious opposition was getting up in New-York; and except also that Myrtle B. Hitchcock of the city of New-York also called upon me afterwards, and stated to me that he was employed by a large and respectable number of citizens of the city of New-York, to oppose its passage. And I solemnly assert, that I never had any understanding or agreement or arrangement of any kind whatever, with the Hon. John C. Kemble, either to purchase any of the stock, or to retard or advance the passage of the bill, or that I had any understanding with him, in connexion with Bartow, or with any other persons or persons; but on the contrary, that my course was dictated with reference to a faithful and conscientious discharge of my duty.

And I further state, that the first time I ever saw or heard of the statement, purporting to be an account of Harlaem stock purchased by Augustus James, was at the time I first appeared before the committee, and that I had no knowledge of, or participation in, that transaction.

In reference to the credit of seven hundred and forty-five dollars upon the books of the bank, I have only to remark, that I had a large account at the bank during the winter, and a large number of credits, at different times and for different sums; but that all the credits were made in the ordinary course of business, except a single credit on account of the Utica and Schenectady stock. And I solemnly assert, that all my transactions with the bank were in no way derogatory to my character as a senator or a man. But I state, and have no doubt, that the said credit of seven hundred and forty-five dollars has reference to an operation in Utica stock, in which I was concerned with Bartow during the winter, and which was closed a few days before the adjournment.

But I beg leave to respectfully state to the committee, that if they will permit me to state upon my oath, that I can and will fully exonerate myself from the base and unfounded charge or insinuation contained in the statement of the Bank.

As to the charge contained in the statements of the bank, that I was concerned with Bartow in stock transactions, I reply, as I have upon all occasions, and to every individual with whom I have conversed, that I was engaged with him after the adjournment of the Legislature, and in the month of May last, the particulars of which transactions I beg leave most respectfully to state to the committee. It may be proper here to premise, that I became acquainted with Bartow in the year 1831, and when in the house of Assembly in this State, and continued from that time until I left Albany last spring upon the most friendly and intimate terms with him; that Bartow was regarded universally, during all that time, as a man of high intellectual attainments, a profound financier and

[Senate, No. 95.]

C

irreproachable probity of character; and that I, as well as the most respectable citizens of Albany and elsewhere, regarded him as incapable of a dishonorable or perfidious action.

During the session of the last Legislature, it was said and generally believed, that Bartow had engaged in certain stock transactions, and had been very successful. It is susceptible of proof, that on the first day of May last, in the opinion of the most shrewd business men in the city, he was worth from thirty to forty thousand dollars. That such was the fact at that time, I did not entertain the slightest doubt.

Previous to the adjournment of the last Legislature, I left Albany with a view of not returning before the adjournment; intending to proceed to Philadelphia upon business appertaining to the estate of my father, Isaac Bishop, deceased. Before leaving New-York, I received a letter from the Hon. John C. Kemble, urging me to return to Albany, to vote for the Schenectady and Troy rail-road; and I was also waited upon by N. P. Waring, Esq. and Samuel A. Willoughby, Esq., with the same request, in reference to an application at the city of Brooklyn: upon such solicitation I returned to Albany, with the expressed intention upon my arrival there of immediately returning. Some days before the adjournment, Bartow, in the presence of the Hon. John C. Kemble, stated that he understood that I was going to New-York, and that he had ascertained that the books of the Long-Island rail-road were to be opened upon that or the ensusing week; that Gov. Throop, Mr. Delafield, Mr. Graham and others, were to have the control of it, and that he thought, under the supervision of such men, it would be a good investment; that he had forty thousand dollars which he desired to invest in stocks, and that if Mr. Kemble and myself would call upon Mr. Delafield and other persons whom he supposed were interested, and that if they advised to the course he would go largely into it; and that if we (Bishop and Kemble) would effect the arrangement he would pay us well for our trouble, or would allow us an interest in the result, at our election. This proposition was acceded to, and I proceeded to New-York the day of the adjournment, and Mr. Kemble followed in two or three days. Upon Mr. Kemble's arrival, we called upon Mr. Delafield and some other distinguished gentlemen, who all advised that it would be a safe and judicious transaction, and that no hazard would be run. We accordingly proceeded to purchase the stock, and afterwards purchased other stocks, either by the verbal or written directions of Bartow.

And I further state, that Bartow wrote me a letter, authorizing me to draw upon him; a copy of which letter is now in my possession, ready to be produced to the committee—the original being in the possession of Mr. Delafield.

And I further state, that it is not true, as stated in the expose of the bank, that I had no funds in the bank, as the truth is, I had funds there during the spring, summer and fall; that at the adjournment of the Legislature I had in the bank, about the sum of two thousand five hundred dollars; that as late as September, I

drew from the bank, about the sum of fifteen hundred dollars, and that a balance was due me in the bank, after Bartow absconded, which was paid to me by them, as a reference to the books of the bank will demonstrate, and to which I, for their information, respectfully refer the committee.

And I further state, that I am ready to answer, upon oath, to any of the matters set forth and charged by the bank, if the committee should deem it proper and expedient for me so to do.

In regard to the charge of the bank, that I drew funds from the bank, I beg leave to state, that at the time of the purchase of the stock aforesaid, I had reason to believe, and did not doubt that Mr. Bartow had funds of his own to pay the prices on those stocks, and that he would and did pay them out of his private funds, and that such stocks were all transferred to Mr. Bartow and the scrips delivered to him, and that I have since learned that Mr. Bartow, before his elopement, transferred or pledged those stocks, and received the avails thereof.

In conclusion, I respectfully submit, to the honorable the committee, that the facts and circumstances furnished by the bank, afford no evidence of the charges and insinuations made by them, but that the same are unjust and without foundation.

WEDNESDAY, 4 P. M.—MARCH 2d, 1836.

The committee met at the Mansion-House in the city of Albany.

Alexander H. Lovett, a witness, called, examined, and sworn before the committee, deposes and says, as follows: Witness says that he is a teller in the Commercial Bank of the city of Albany. Witness says, that on the evening or afternoon of the 28th September, 1835, Mr. Bartow took from my possession, checks and drafts to the amount of \$53,644.93, as bank notes, &c. and charged them to the Bank of America. That item was composed of checks or drafts on the Commercial Bank, drawn by Mr. Bishop, Mr. Kemble, and Mr. Bartow. Some of those checks had been accumulating in my possession from the latter part of May to that period; witness says, that the above charge, (which he now exhibits on the book) is in Mr. Bartow's hand-writing. This charge was composed of checks of Messrs. Bishop, Kemble, and Bartow, which he ordered me to seal up in a package, on the evening of the 28th of September. Witness says, I sealed them up in a package, and put them in the box where the discounted notes were kept, and marked the amount upon the package. Witness says, that Mr. Bartow directed me not to charge the checks to the account of those individuals, but keep them a few days as cash; witness says, they were so kept from the time they were received, until they were enclosed in the package, and were never charged to the account of the drawers. The said checks were received at different periods, from May until they were sealed up. Witness says, there was one check

drawn by Mr. Kemble, for \$6,500, and I paid it, as teller, on the 30th day of May last. Witness says, to the best of my recollection, the check was drawn on the Commercial Bank: it is so entered on the books of the Mechanics' and Farmers' Bank, from which it was received; witness says, on the same day I paid Mr. Bishop's check on the Commercial Bank, for \$7,000; witness says, on the 3d day of June, 1885, I paid Mr. J. C. Kemble's check for \$13,144.93, on the Commercial Bank; witness says, I know the hand-writing of Messrs. Bishop and Kemble, and know the said checks to have been theirs; witness says, the said package was taken from the box, to which no one had access, except Mr. Bartow, myself, and the clerks of the Bank, and it was not taken by me; witness says, that he examined the said box about ten days after Mr. Bartow's absence, and found that the said package was not there; witness says, I did not make the examination until my suspicions were excited that Mr. Bartow had absconded; witness says, that on the 30th day of September last, Mr. Bartow absconded from this city, and has not since returned; witness says, that the charge made on the evening of the 28th day of September last, against the Bank of America, of bank notes, &c. by Mr. Bartow, was a false charge, no package of any kind being made up for the Bank of America on that day, nor any other on any other day, corresponding to that amount; witness says, that the Commercial Bank has never had a credit from the Bank of America for that charge, or any part thereof; witness exhibits nine checks drawn by Mr. Kemble, and admitted by Mr. Kemble to have been signed by him, a list of which is hereunto annexed, and marked as schedule A. Also, four other checks drawn by Mr. Kemble, and admitted by Mr. K. to have been signed by him: a list of which is hereunto annexed, and marked as schedule B. Witness says, all the checks contained in the said schedules, were paid at the counter of the Commercial Bank; witness says, that the account of Mr. Kemble at the bank, is overdrawn by the payment of the said checks, to the amount of \$5,078.27 and that there is a balance yet due the Bank, of \$4,980.64; witness says, the said amount of \$5,078.27, overdrawn as aforesaid, is exclusive of the \$6,050 check and the check for \$13,144.93, sealed up in the said package; witness says, when the said checks upon which the overdrawing was made, were presented to me, I showed them to Mr. Bartow, and he directed me to pay them; witness says, when I showed the said checks to Mr. Bartow, both of us were aware that Mr. Kemble's account was not good for the amount; witness says, that the total amount of funds abstracted from the Commercial Bank, by Mr. Bartow and others, including a note of Mr. Bartow's for \$10,000, is \$143,548.61; witness says, that Mr. Bartow directed the Bank of America to charge to the account of the Commercial Bank, (as the Bank of America alleges) his, Bartow's, note for \$10,000, above stated.

A. H. LOVETT.

The said witness, upon being cross-examined, deposes and says as follows: Witness says Mr. Bartow was regarded in this city, in the month of May last, as a man of responsibility; witness says

from his, Bartow's, own assertions, he was worth \$35,000; I considered him worth 20 or \$25,000; witness says it was reported that Mr. Bartow had made considerable money in his Utica and other stock speculations last spring; witness says it was so reported last spring; witness says Mr. Bartow's character for integrity was undoubted before his departure; witness says, my impression is that there was another check of Mr. Bishop included in the said package, besides the check for \$7,000, but of this I have no distinct recollection, and am not able to trace any such other check; witness says the two checks drawn by Mr. Kemble and put into the said package, were put in the drawer and counted as cash, from the time of their payment by the bank until they were sealed up on the 28th of September; witness says, I do not know from what bank the check drawn by Mr. Kemble for \$1,000, and contained in schedule B, came, nor whether it was paid at the counter; witness says, I do not recollect whether I ever informed Mr. Kemble that his account was overdrawn, as overdrawings are a matter of every day's occurrence at that bank; witness says such large overdrawings are not common; witness says it is the custom of the bank to give notice to its customers who have overdrawn their accounts; witness says the notice is usually given by the direction of the cashier.

Question by Mr. Kemble. If Mr. Bartow, in the months of May or June, 1835, had requested you to go to New-York and make a purchase for him to the amount of \$10,000, and told you to draw a check on the bank for that amount, and he would pay it when it came to the counter, would you have declined to do so?

Answer. It would have depended upon the character of the commission.

Q. If it had been to pay R. H. Winslow for stock purchased by him for Mr. Bartow, would you have then declined to do so?

A. I should, unless knowing he had the funds in the bank.

Examination by Mr. Livingston. Witness says the bank makes up its cash account twice a week; the board of directors examine the cash on hand twice a year; witness says that the examination takes place once before the time of reporting to the legislature and again in the fall; no examination was had between the first day of May last and the first day of October last; witness says these checks were reported by him in making up his cash account for the board of directors, as bills of foreign banks; witness says, my reason for holding them as cash was, that Mr. Bartow said he had more in deposit in New-York than that amount, and Mr. Bartow showed me a letter from John Ward & Co. of New-York to that effect; witness says the letter stated that they had deposited in the Bank of America money amounting to \$50,000, according to the terms agreed upon, which Bartow induced me to believe he had the control of, and that it would protect me in any defalcation on account of the said checks being held as cash; witness says, I do not recollect the date of that letter; witness says, I have seen the letter since Mr. Bartow went away the last time; witness says, I saw the letter at the bank, and believe it to be in the possession of the bank.

Question by Mr. Kemble. Can you remember in what month, whether in June, July, August, September, or either of them, that letter was received.

A. I do not remember the date, nor do I know whether ever I saw the date of the letter.

Q. Did you not break the seal of the said letter?

A. I did, but on perceiving it a private letter, I handed it to the cashier without reading it, and the cashier afterwards showed me a part of the said letter, containing the statement about the \$50,000 deposite, as is above stated.

A. H. LOVETT.

Then the committee adjourned until to-morrow afternoon at 4 o'clock.

THURSDAY, 4 P. M.—MARCH 3d.

Committee met pursuant to adjournment.

On the further examination of Alexander H. Lovett, the witness sworn and examined yesterday, the said witness deposes and says as follows:

Witness says, I do not know whether Mr. Bartow had funds in bank to the amount of the two checks drawn by Kemble and Bishop, amounting to \$13,500, and paid on the 30th May last; I paid those checks at the time they were paid, with the money of the bank, by Mr. Bartow's direction. I paid the check for \$13,144.93 in June last, drawn by Mr. Kemble, with money of the bank, by Mr. Bartow's direction, and I do not know whether he, Bartow, had funds in the bank to that amount at that time. Bartow was in the habit of discounting notes, and at the next meeting of the board submitted them for their approval.

Question by Mr. Kemble. Of the \$53,644.93 in checks, sealed up and put in the tin box, were not a part of them the checks of Mr. Bartow?

A. They were.

Q. by Mr. Kemble. Upon whom did Mr. Bartow draw these checks?

A. The Commercial Bank. They were paid with the funds of the bank. Mr. Bartow, I suppose, had not funds to that amount, at that time in the bank; I did not believe that his account was good at that time for the full amount. I paid these checks of Bartow's, and kept them as cash by his direction; these checks of Bartow's were not charged on his account, and did not appear upon the books of the bank. I reported the said checks of Bishop and Kemble, to the directors, as the bills of other banks, from the time of their receipt, until the 28th of September last. I so reported by Mr. Bartow's direction, and relied upon his integrity to make the account good.

I do not recollect that Mr. Bishop, after the month of May last, drew any check upon the Commercial Bank, which was not charged to his account. I cannot recollect that Mr. Bishop ever drew any check except the \$7,000 check, which was not charged to his account. If there was another check of Mr. Bishop's in the package, it was not charged to his account. Mr. Bishop for several years past, has kept an account in the bank, but the account was not considered a large one. Independent of the check or checks contained in the package, I always paid the checks of Mr. Bishop. I do not recollect of ever paying any other checks of Mr. Bishop's which were overdrafts, besides the check or checks contained in the package. The check of Mr. Bishop's for \$7,000, came through the City Bank of Albany, and I believe from the Phenix Bank of New-York; the City Bank of Albany keeps an account with the Phenix Bank of New-York, as I understand from the officers of the Albany City Bank. I do not recollect that Mr. Bishop drew any check in the month of May last, which came through any other than the City Bank. I do not recollect whether I did or did not present any other check of Mr. Bishop, than the \$7,000 check to Mr. Bartow for his approval. I recollect when I presented the \$7,000 check to Mr. Bartow, he told me to pay it. The check for \$13,144.93, drawn by Mr. Kemble, came to our Bank through the City Bank of Albany, and I believe it was received by the City Bank from the Phenix Bank, New-York. The check for \$6,500 drawn by Mr. Kemble, came through the Mechanics' and Farmers' Bank, and I believe came from the Commercial Bank N. York, to the Mechanics' and Farmers' Bank. I have no distinct recollection whether the three checks sealed up were endorsed by the drawers or not. I do not recollect that either of the checks drawn by Mr. Kemble, was endorsed by Mr. Bishop. The check signed by Mr. Kemble, dated the 15th April, 1835, for \$107, included in schedule B, is in the usual form of drawing checks upon the Bank.

Q. Is the check signed by Mr. Kemble, dated May 4, 1835, for \$1,100, included in schedule B, drawn in the usual form of drawing checks upon the Commercial Bank, when the drawer has funds?

A. It is not in the usual form; the printed form of the check is the usual form. It is usual to draw upon the "Commercial Bank," and not upon the "cashier of the Commercial Bank." The only peculiarity about this check is that it is made payable to the drawer's own order. One of the checks included in the said package was in writing, and in Mr. Bishop's hand writing; and was signed either by Mr. Bishop or Mr. Kemble, but which I do not remember. The board never made any complaint against me for not communicating to them that I held the said checks on hand, and counted them as foreign bills. Some of the directors have told me that they thought it my duty to have informed them of it. I have stated to some of the directors that my reason for not doing so was that I had confidence in Mr. Bartow's representations; witness says that the letter exhibited to him and marked as schedule C, is the same letter which was shown to him by Mr. Bartow, from

John Ward & Co., as before stated. At the time the Harlaem rail-road bill was pending in the Senate, Bartow had a conversation with me on the subject.

A. H. LOVETT.

FRIDAY, 4th MARCH, 1836.

Committee met pursuant to adjournment.

Augustus James, being sworn, doth depose and say, that the document marked A, in the original representation made by the bank, is the original account of purchases and sales of stock, made by Mr. R. H. Winslow, of the city of New-York. Mr. Winslow was employed by me to make those purchases. He was employed by me, I presume, on the days in which the purchases are entered on the account. It was, I am sure, previous to the adjournment of the Legislature, and I think in the month of April last. The whole 800 shares was purchased on my own account, as between the broker and myself. I did not mention to the broker that any other one than myself was interested. I accounted with Bartow for a portion of the profits on the stocks. I ordered Bartow to give me credit for one-third of the profits on that stock. I purchased the stock on the 14th and 15th days of April last. I think the 300 was purchased on the 14th April, and the 500 on the 15th of April last. It appears by another letter, and I believe it was sold on the 24th day of April last, and on the 25th day of April last; Bartow called on me at my house on the 12th of April last, on a Sunday evening, and asked me whether I was going down to New-York, as I had told him yesterday. I said I was. He said there was a bill in the Legislature authorizing the Harlaem rail-road to increase its capital, and to extend the time for its completion; and that as soon as it passed, there would be a rise in the stock, as there was a certainty of the road's coming into Wall-street. He remarked that there was a certainty of its passing, as there was a great force here from New-York, and the corporation had assented that it should come into Wall-street. Among others, he told me that Mr. Garrit Gilbert and Samuel Swartwout were here, and had been here from New-York. I told him that I would make inquiries of some of the directors whom I knew, and if it was safe, I would purchase. Bartow proposed to me to go into partnership in the purchase of the stock. I told him I would join him in 300 or 400 shares. He then mentioned that it would be altogether useless to buy that amount: that there should be bought the quantity of 1,000 or more shares, on time, so as to produce a scarcity of the stock, and make an impression on the market. I told him it was too hazardous to buy that amount; that it was a thing I knew nothing about, and would not agree to any thing of that kind. I never had any conversation with Mr. Bartow on the subject of the Harlaem rail-road before. I gave him no encou-

agement about purchasing the stock to that amount; and he then endeavored to shew me that he was worth \$30,000, and that I might purchase it on his account, or take a small portion of it myself. He then satisfied me that he was worth \$30,000 or over; we then parted; I told him I would see him the next day and give him an answer. I saw him at the steam-boat when I went off, on Monday, the next day; I am not certain whether I saw him at the bank that day or not. He asked me whether I had seen the Senate proceedings of that day, by which it appeared that there was a delay or trouble about that bill in the Senate. He remarked, I need not fear to buy; there would be an immense force from New-York to bear upon the bill to get it through, and mentioned whom he had been talking to from New-York, and mentioned their names, which I do not now recollect. I told him at the boat that whatever I would do, would be after getting information in New-York. I went to New-York, and saw Mr. Wilkes, a lawyer, one of the directors, having other business with him, who gave me great faith in the stock, and said he had purchased largely himself, and assured me he had given his friends in Albany encouragement to buy, and that they had bought. He also said he knew the bill would pass. On that day, or the next, I met Mr. Henry Ogden in Wall-street, who had been mentioned to me as a director; he gave me confidence in the stock; my impression is, that it was from what he said that I was induced to buy the last lot of 500 shares of stock.

Question by Mr. Reynolds. Why did you direct Mr. Bartow to put one-third of the profits to your credit?

(Two letters were here introduced, which witness testified were written by him at the time of the dates thereof, to Mr. Bartow. Vide Schedules D and E.)

A. Because Bartow told me to go in largely, and as I intimated to him that I would not go in for more than 3 or 400 shares, and as I had all the trouble of purchasing, I thought it fair that I should take one-third of the profits only, and give the rest to Mr. Bartow. On the same day I had sold Utica stock, amounting to about \$154,000. Bartow satisfied me after my return that I was not entitled to the one-third of the profits; and I finally got from Bartow \$80 less than the amount of one-third of the profits; at the time I went down to New-York, I took down with me 661 shares of the Utica stock, belonging to Mr. Bartow, Mr. J. B. Van Schaick, Mr. Seton Henry, Mr. Webster and myself. I sold it when at New-York, and placed the avails to my credit in the Manhattan Bank, so that when I returned, I divided the profits between those gentlemen and myself, amounting to \$665.41 each. I asked Bartow on settlement, whether he had credited me with the one-third of the profits on the Harlaem stock, and he told me he had not, because if there had been any loss on the stock, he could not have looked to me for more than the loss on 200 shares, as I intimated to him that I would not go in with him for a greater quantity than 400 shares; we had some words about it, and we finally compromised it by my retaining the profits belonging to him on the Utica

[Senate, No. 95.]

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stock, amounting to \$685.41, and he keeping the whole of the profits on the Harlaem. I have no knowledge that Mr. Kemble or Mr. Bishop were interested in the Harlaem stock; I never had any conversation with Mr. Kemble or Mr. Bishop on the subject of Harlaem stock. I am a director of the Commercial Bank, and have attended regularly since Bartow's departure.

There was a committee appointed to investigate the accounts of these gentlemen, (Messrs. Bishop and Kemble,) and was clothed with full power to give the committee of the Senate all the aid and information in their power to facilitate the investigation, and to lay the whole matter before the committee of the Senate. The expose of the bank was not submitted to the board of directors before it was sent to the committee of the Senate, but it was read to the board afterwards; the first knowledge I had of the expose was, that the president informed me that a copy of the same was at the office of the counsel, Mr. Stevens. I went there and saw the copy, but did not read it all; there was no objection made to the expose at the time it was submitted to the board of directors, and I now consider it the act of the corporation; the reason why I did not attend to it was, that I was not familiar with the subject. The reason of my not objecting to the report was the faith that I reposed in the committee; if I had been called upon, as a director of the bank, to put my name to charges against individuals, I would not have done it without inquiring into the matter, and understanding it perfectly; I have no knowledge, as a director of the bank, that Mr. Kemble or Mr. Bishop was confederated with the late cashier thereof in his abstraction of its funds. I have heard from some directors that they had taken the money of the bank with Mr. Bartow's consent, or that Bartow had allowed them to overdraw their accounts, or to take money on their checks; very few of the directors know so little about the affairs of the bank as I; and I have never examined the accounts of Messrs. Bishop and Kemble; I have heard some of the directors say, that they were advised by counsel, that the drawing of the funds of the bank with the connivance of Bartow, by these checks, was indictable. Mr. Bartow's standing was good in this community anterior to the 28th of September last; I have no knowledge that Mr. Bartow previously to the first day of July last lost any money in his stock transactions. I am now convinced that Mr. Bartow was not worth any thing like so much as he satisfied me he was last spring. Whenever I bought stock in which Mr. Bartow was interested, he requested I should not use his name in the purchasing it, to the broker; my impression is, that the president of the bank knew of Mr. Bartow's speculations in stock last spring, because I talked with him about the Utica stock; but I do not think that any of the directors knew any thing about his stock transactions of the month of May last, except that I had one operation with him in Utica stock last August; but I do not know that this was known to any other of the directors, except that it was known to the president; I think that the president did not know of the Utica stock transaction in the spring until after it was sold, and the matter settled.

AUGUSTUS JAMES.

Then the com. adjourned until to-morrow afternoon at 4 o'clock.

SATURDAY, 4 P. M.—MARCH 5th, 1836.

The committee met pursuant to adjournment.

The examination of Mr. Augustus James being renewed, he says: I have met Messrs. Bishop and Kemble separately, accidentally, several times within the last two years, in the front room of the bank and the back room of the bank: and have seen them with Mr. Bartow in those rooms; and also recollect of having met Mr. Bishop frequently with Mr. Bartow, in his room in the City Hotel, at the time he boarded there, within the last two years; Messrs. Bishop and Kemble both boarded at the City Hotel, as I understand. In May last, after the adjournment of the Legislature, I met Mr. Bishop at the corner of North-Market and State-streets, in this city. He told me he was going to New-York that day, and asked me if I had not made money on Utica rail-road stock; and I think intimated to me that he was going to buy some. He was particular in his inquiries as to who were the best brokers. I advised him of the uncertainty of any thing more being made on that stock, as it was then 128 or 130. I recollect that I heard in the month of August last, from some one, that Bartow had purchased Mr. Peter S. Henry's share or interest in the Harlaem rail-road stock, and it was thought that Mr. Bartow would make money out of it. I heard in the early part of the summer, that Mr. Bartow was interested with Messrs. Bishop and Kemble in the purchase of Long-Island rail-road stock. When I was in New-York, from the 20th to the 25th of April last, Mr. Bartow wrote me that he had sold a lot of Utica rail-road stock at a high price, and mentioned Thomas W. Olcott as among the purchasers.

In answer to Mr. Kemblé's question, witness says: After Bartow absconded, the bank appointed a committee to investigate, respecting the loss of its funds; and the committee reported, in substance, that, in their opinion, Bartow's stock operations in Harlaem stock, and other stock operations with Messrs. Kemble and Bishop, had ruined him, and produced the abstraction of the funds of the bank. The committee consisted of Messrs. Benedict, Gilchrist, Van Benthuyzen and Hastings. The committee reported that his stock operations for some months past, produced his ruin.

In answer to Mr. Bishop's question, witness says: Each member of the committee was active in the discharge of his duty. Mr. Hastings was added to the committee some two or three weeks after the absconding of Bartow.

AUGUSTUS JAMES.

Upon his further examination, witness says: During the first week of my stay in New-York, last spring, I received two letters from Mr. Bartow, in one or both of which, he pressed me to buy Harlaem stock.

AUGUSTUS JAMES.

Alexander H. Lovett being re-examined, deposes and says: I have seen the check before, marked B, in the original representation of

the bank, dated 28th April, 1835, drawn by Mr. Bartow, for \$745, on the Commercial Bank. As near as I can recollect, I received the check on the day of its date from Mr. Bartow, and by his direction placed it to the credit of Mr. Bishop: witness says, that Bartow delivered to me moneys two or three times, and directed the same to be placed to Mr. Bishop's credit. I have no recollection of receiving more than \$200 or \$300 at any one time.

A. H. LOVETT.

John L. Schoolcraft being sworn, says: I remember when the Harlaem rail-road bill was pending in the Senate, in the spring of 1835. On the 15th of April last, I was on board of the steam-boat and was going to New-York, Mr. Kemble was on board while she lay at the dock, and asked me if I wished to make money. We stepped to one side from the crowd, and Mr. Kemble advised me to buy Harlaem stock. My impression is, he said the bill would pass in three days, or in a few days; and that the lobby members were returning to New-York in that boat, supposing the bill would not pass. Mr. Kemble returned ashore, and the boat started.

In answer to Mr. Livingston's question, witness says: Mr. Kemble did not say that he had purchased any stock, or ordered any purchased.

Q. by Mr. Reynolds. I have had conversations with Mr. Kemble since the presentation by the bank, of its petition to the Legislature for an increase of its capital. In a conversation with Mr. Kemble some days ago, Mr. Kemble told me that if the bank would come out and disclaim that they had any thing to do with the circulation of the reports, that he had been deeply engaged with Bartow, in his abstraction of the funds of the bank, that he would guaranty the passage of the bill which their petition asked for. Witness is a director of the bank.

On his cross-examination, witness says: I informed Mr. Kemble that the board of directors of the bank, as a board, had never authorized any publication or charges against any Senators. Mr. Kemble told me that he did not believe the board had, but that some individuals of the board had. Mr. Kemble asked me if the board wished to have an increase of their capital. I answered that they did.

Q. by Mr. Kemble. Did you understand me to say that I wished the board to disclaim that I had any dealings in stock with Mr. Bartow.

A. I understood you to say, that you wished the board to disclaim your having any connexion with Mr. Bartow, in his abstraction of the funds of the bank; and also, that they had given circulation to any such reports.

JNO. L. SCHOOLCRAFT.

Adjourned.

TUESDAY, 4 P. M.—MARCH 8, 1836.

The committee met pursuant to adjournment.

Messrs. Kemble and Bishop admit, that their published remarks in the Argus of the 14th, 16th, 17th and 18th of April last, on the Harlaem rail-road bill, are in substance correctly reported.

Obadiah R. Van Benthuyzen being called and sworn, says as follows: I am a director of the Commercial Bank of Albany. Upon being shown the check for \$1,000, dated September 7th, 1835, drawn by Kemble, and included in schedule B, hereunto annexed, witness says, I presented this check at the counter of the Commercial Bank of the city of New-York, on the 17th of October last, for payment, and was told by an officer of the bank, whom I presumed to be the teller, that there were no funds there to pay the check. I made then a special inquiry, whether that check was good at its date: the answer of the same person was, that he could not tell, but referred me to the cashier; whereupon, a gentleman came forward, whom I addressed as Cashier, and to whom I put the same question. His answer was, it was not, neither had it been since. I then requested of him that he would make an exhibit of Mr. Kemble's whole account with the bank, if he could do it consistently—which he did do. By which account, I was satisfied that this check was not good at the time of its date, nor at any time subsequent. I presumed the account presented was a true and authentic account from the books. I caused the check to be protested on the same day for non-payment. On the day previous to presenting the check, I saw Mr. Kemble at the Commercial Bank in Albany: he said that that check must have been paid at the Commercial Bank of Albany through a mistake; that when he drew that check he drew it at the Commercial Bank of New-York, and that funds were, at the time of the conversation, in the Commercial Bank of New-York to meet the check.

Cross examined by Mr. Bishop. I was one of the committee appointed by the directors to investigate the losses of the bank. I never called on Mr. Bishop at any period, to make any inquiries of him, or any claim against him. None of the committee ever called on Mr. Bishop, to my knowledge, on the subject.

O. R. V. BENTHUYSEN.

Seth Hastings being sworn, says: I was present at the time of the conversation in the Commercial Bank, between Mr. Van Benthuyzen and Mr. Kemble, testified to by Mr. Van Benthuyzen. Mr. Kemble said that the check was paid by the Commercial Bank of Albany by mistake, and that the funds were then in the Commercial Bank of New-York to meet it. I then asked Mr. Kemble to give us another check for that amount in exchange, because this check spoken of had been cancel-marked by mistake. Mr. Kemble said he could not do it, as he had been advised by his counsel not to do any thing until his whole account with the Commercial Bank of Albany could be settled.

Examined by Mr. Kemble. A considerable time after the committee was appointed by the bank to investigate the bank losses, I was added to the same committee; I am one of the directors of the bank. Mr. Kemble said he would pay this check of \$1,000 and the balance due on his account, as presented to him, except the checks, which he said were drawn for Bartow's benefit, if the directors would give up or cancel the checks which he said were drawn on Bartow, and ought not to have been charged to his account; and if the bank would also give him a release. He, Mr. Kemble, has, at different times, made the above proposition to me. I never have given any direct answer to Mr. Kemble's proposition.

Examined by Mr. Bishop. No member of the committee has ever called on Mr. Bishop, in relation to this subject, to my knowledge.

SETH HASTINGS.

Mr. Kemble stated to the committee, that after I had the conversation with Mr. Van Benthuyssen, I sent a special messenger, by advice of counsel, to New-York to request the cashier of the Commercial Bank of New-York, not to pay the \$1,000 check, which messenger reached the bank on the morning of the next day before the bank opened.

The bank offers to prove, that before the final passage of the Harlaem bill in the Senate, and while Mr. James was in New-York, purchasing Harlaem stock, as stated in his testimony, that Mr. Bartow stated to the teller of the Commercial Bank and to one other individual, that he, Bartow, had an understanding with Messrs. Bishop and Kemble, that they were to raise such objections to that bill, as to blind the New-Yorkers, until they, Bartow, Bishop and Kemble, got things to suit themselves, and then it would pass the Senate. And they also offer to prove, that Bartow showed the teller, letters to Mr. James, urging him to the purchase of more stock. The admission of this testimony was objected to by Messrs. Bishop and Kemble, who gave their reasons therefor.

The chairman put the question on receiving the said testimony, and the committee all voted in the affirmative, except Mr. Livingston, who voted in the negative.

Adjourned to 4 P. M. of Wednesday.

WEDNESDAY, 4 P. M.—MARCH 9, 1836.

The committee met pursuant to adjournment.

On account of the indisposition of Mr. Bishop, the committee adjourned until to-morrow afternoon at 4 o'clock.

THURSDAY, 4 P. M.—MARCH 10th, 1836.

The Committee met pursuant to adjournment.

Mr. Bishop offered the following protest to the admission of the evidence offered to be proven by the bank.

Isaac W. Bishop, on his own behalf, objects to the confessions of Bartow being received in evidence, to show that he was under the influence of, or connected with Bartow, in reference to the stock of the Harlaem rail-road purchased by Mr. James previous to the adjournment of the Legislature, as is charged in the expose of the bank: inasmuch as there is not the slightest testimony to show any such connexion, so far as he is concerned; but on the contrary, that the testimony of Mr. James goes strongly to exonerate him from any such charge; and I insist that the admission of such testimony would be most arbitrary and dangerous in practice, and utterly subversive of every rule of evidence which has prevailed in any civilized land since the days of Jeffries. I further most respectfully request of the committee, that the question may be argued by counsel, upon the principles of law and of immutable justice, so that the decision made by the committee, and ratified by the Senate, shall hereafter be regarded as the law of the land.

Mr. Mack moved to reconsider the vote given by the committee, admitting the testimony offered by the bank, concerning Mr. Bartow's declarations, which was agreed to by the committee.

The chairman then put the question on admitting the said testimony offered by the bank, which was decided in the affirmative, Mr. Young, Mr. Van Schaick and Mr. Lacy voting in the affirmative, and Mr. Livingston and Mr. Mack voting in the negative.

Adjourned to 4 P. M. to-morrow.

FRIDAY, 4 P. M.—MARCH 11, 1836.

The Committee met pursuant to adjournment.

Seth Hastings being recalled, says:

Question by Mr. Reynolds: At and about the months of May or June, 1835, was the credit of Mr. Bishop or Mr. Kemble such at your bank as would have induced the directors to have permitted them, or either of them, to have overdrawn their accounts for any amount, without security?

A. I think the board would not have permitted them to overdraw at all.

Cross-examined by Mr. Kemble. Says Mr. Kemble never did, to my knowledge, apply to the board of directors for leave to overdraw his account; as a general rule, the board never authorize any person to overdraw his account, nor have they ever, to my know-

ledge, permitted any individual to overdraw his account to any amount; I think the board have discounted small notes of Mr. Kemble's, and I do not recollect that any note of Mr. Kemble's was rejected by the board; I do not know that any note of Mr. Kemble's, discounted at the Commercial Bank, was not promptly paid; I assented to the discount of Mr. Kemble's note upon the responsibility of the endorser principally; I did not know Mr. Kemble personally, and relied principally upon the information I got at the board, upon the endorser; Bartow denied to me some time before he absconded, and in the latter part of the summer, that he had any interest in speculations in the Harlaem stock with Messrs. Henry and Webster; what led to the conversation was, that the bank had discounted a draft of Mr. Webster which Bartow said was to pay for stock, which witness supposed to be Harlaem stock; the draft was endorsed by Rufus Brown, of the city of Albany, and was drawn on R. L. Nevins & Co. of New-York, and was for \$20,000; Mr. Bartow said at this time that he had been requested by Mr. Webster to go into the Harlaem stock, but had refused; Bartow has told me that he held some western bank stocks; my impression is, that he told me that he held \$10,000 in the Commercial Bank of Buffalo.

Cross examined by Mr. Bishop.—Bartow at one time told me that he was worth over \$30,000. This was in the course of the last summer, and I think in the latter part of June or July. The board of directors of the Commercial Bank is not in the habit of discounting any man's note without an endorser. The board require two fair names to a note. I do not recollect that Mr. Bishop ever had a note presented for discount at the bank. I do not know that Mr. Bishop ever drew a check on the Commercial Bank which was not good, except the check for \$7,000, alluded to in Mr. Lovett's testimony, never having examined his account with that view. The attorney of the bank and Mr. Schoolcraft called on Mr. Kemble, in relation to his account; they called on him by the request of some members of the board. I do not know that any member of the committee called on Mr. Bishop, in relation to his accounts on the books of the bank; at the time Col. McKown, the attorney of the bank, and Mr. Schoolcraft called on Mr. Kemble, it was not known by the board that Mr. Bishop had drawn the 7,000 check; it was immediately after Mr. Bartow absconded that it was communicated to me by the teller, that a package containing sundry checks for which he had paid \$53,000 and upwards, was missing from his trunk; and he, the teller, supposed it had been taken by Bartow. It was soon after Bartow absconded, that the teller communicated to me what he supposed to be the contents of the package. I inquired of the teller what the contents of the package were, at the time he told me it was missing from the trunk, and whether it might not have been sent to the Bank of America, and credited to the Commercial Bank? He replied it was not funds which would have been current at the Bank of America, and said it consisted of the checks of Bartow and others, and I think mentioned the names of Bishop and Kemble. I think before the first of December last, I found out that the pack-

age contained a check of Mr. Bishop's for \$7,000, and another of Mr. Kemble for \$13,000 and upwards; it was thought best to omit calling on Mr. Bishop and Kemble, in relation to the said checks, until after the commissioners were appointed under the absconding debtor act, to settle the affairs of Bartow. Witness says that individuals sometimes leave notes at the bank for discount, and then are permitted before discount day, to overdraw their accounts, upon the security of the notes left. I have not heard that there has been any greater abstraction of funds either from the bank or the Savings Bank, than the amount reported to the Legislature in February last.

SETH HASTINGS.

The committee hereupon resolved to submit the question to the Senate, whether the declarations of Bartow offered to be proved by the bank, should be received.

On submitting the same, the Senate passed the following *Resolution*:—

IN SENATE, *March 11, 1836.*

Resolved, That in view of the facts and circumstances developed in this cause, the testimony relating to the conversation had between the cashier of the Commercial Bank of Albany, and the teller thereof and one other person, which the bank has offered to prove, should be admitted.

By order.

JOHN F. BACON, *Clerk.*

SATURDAY, 4 P. M.—MARCH 12th, 1836.

The committee met pursuant to adjournment.

Alexander H. Lovett being recalled, says as follows: Mr. Bartow some time in April last, or shortly previous to the passage of the Harlaem rail-road bill, said to me, I have an understanding with Messrs. Bishop and Kemble, and they are to raise such objections to that bill as to blind the eyes of the New-Yorkers, or some similar expression, as to its passage, until we have got things to suit ourselves, and then the bill will pass.

Cross examined. Mr. Bartow told me that the Harlaem rail-road bill was pending in the Senate. I think it was in the same conversation I have testified to, but it may have been a day or two before. I think Mr. Bartow commenced the conversation by saying he meant to make some money out of the Harlaem stock; I think I had heard a day or two previous that the Harlaem rail-road bill was pending in the Senate; I think I heard it from Mr. Bartow; I had no information from any other source than Mr. Bartow that the Harlaem rail-road bill was pending in the senate; the conversation, Senate, No. 95.] E

tion with Mr. Bartow in relation to Messrs. Bishop and Kemble was held in the bank; it is my impression that it was in the afternoon; I do not recollect any other conversation except the one testified to, in which Mr. Bartow mentioned the names of Messrs. Bishop and Kemble in reference to the Harlaem rail-road. I did not mention this conversation to any one until after Mr. Bartow went away, and I think at the time of giving an account of the checks contained in the package; I think I first mentioned the conversation to some of the directors; I cannot say to whom of them; I think I mentioned the circumstance of Mr. Bartow's conversation with me voluntarily, and not in answer to any interrogatories proposed to me. Bartow read portions of letters to me which he had written to Mr. James, while in New-York, urging him to purchase Harlaem stock; the letters were directed to Mr. James; I think I saw portions of two or three letters of this description; I think the letters were shown to me after the conversation to which I have first above testified; one of the letters may have been written on the same day with the conversation; I cannot say that the letters were written on successive days, but think there was no great interval between their dates.

Q. by Mr. Livingston. Neither of the portions of the letters shown to me spoke of Mr. Bishop or Mr. Kemble.

Q. by Mr. Van Schaick. I paid the checks of Messrs. Bishop and Kemble contained in the package, as drafts on the bank, and not as drafts on the cashier in his individual capacity.

Q. by Mr. Livingston. Messrs. Bishop and Kemble at the time these checks were paid, had not funds sufficient to meet them in the bank; I paid them because I was directed so to do by the cashier; the checks in the package of Messrs. Kemble and Bishop, as near as I can recollect, were all printed, except one; I can not say whether the checks were drawn "Commercial Bank," "Cashier of the Commercial Bank," or made payable to, and endorsed by the drawer, or not.

Q. by the Counsel for Mr. Kemble. The reason why some of Mr. Kemble's checks were charged to his account, and the ones contained in the package were not, was, that it is the common course to charge all checks, and those omitted to be charged were not charged by the special direction of the cashier, Mr. Bartow. Mr. Bartow told me at one time, that he and Mr. Webster were going to buy Harlaem stock; I did not communicate this fact to the directors. Bartow told me some time during the summer, that he, Bartow, was charged in a New-York newspaper, with being engaged in stock speculations in New-York.

Q. by Mr. Bishop. One of the checks in the package, was in Mr. Bishop's hand writing, and my impression is, it was the \$7,000 check; and the reason of the impression is, Mr. Bishop's assertion before the committee, that he had written the \$7,000 check, and that I can trace no other.

Mr. Bishop asked the witness the following question:

What was the nature of your stock transactions in the spring, summer and fall of last year?

The counsel for the bank interposed the following objection:

This question is objected to, on the ground that it involves an impertinent inquiry into the private concerns of the witness. No objection is made to an inquiry as to any stock transaction in connexion with Bartow or with the funds of the bank.

The committee decided the question to be inadmissible.

Examined by Mr. Bishop. I never was engaged with Mr. Bartow in stock transactions; I never had any money from the bank to purchase stocks with.

A. H. LOVETT.

John Townsend, being sworn, says: I am president of the Commercial Bank of the city of Albany.

Examination by Mr. Livingston.—Mr. Bartow has made declarations to me in relation to the Harlaem stock. At the time when the bill was under consideration in the Senate, and I think was ready for a third reading, Mr. Bartow stated that he had arranged with Mr. Kemble to make some movements to delay the passage of the bill that day; that he, Bartow, had entered into a speculation in the Harlaem stock, and meant to make money by it; my advice to him was, to get through with it as quick as possible, and have nothing more to do with matters of that kind; Bartow, after that, always stated to me that he had nothing to do with stock speculations; Mr. Bartow told me that the bill was in progress, and I knew it from the newspapers, and it was a matter of notoriety; my attention had not been particularly called to that bill, until Bartow's conversation with me. Witness says that Mr. Bishop's name was not used by Mr. Bartow in the conversation; my impression is, that Bartow stated that Mr. Kemble had been absent from his seat in the Senate the day before, but of this I am not positive; he, Bartow, never mentioned the name of Mr. Kemble as being connected with him, Bartow, in the purchase of Harlaem stock, or any other stock transactions; Mr. Bartow never mentioned to me the name of Mr. Bishop as being connected with him in stock transactions, or as being concerned in delaying the passage of the Harlaem rail-road bill through the Senate; Bartow told me voluntarily what I have stated as coming from him, Bartow; Bartow said he had gone into the Harlaem stock, and was going in further; I had no knowledge from any other source than Bartow himself of his stock speculations, except that I saw, in September last, a charge of that kind in a newspaper against him, which he denied; Bartow at this time pretended he had property, and he owned some stock in the Commercial Bank of Albany. I know of no other speculation of Bartow's than I have above mentioned, during the period of the abstraction of funds of the bank.

Examined by the Chairman.—It was after Bartow had absconded that I communicated this conversation. At the time that Bartow communicated the arrangement with Mr. Kemble about delaying the Harlaem rail-road bill, I thought it improper conduct in both of them, Mr. Bartow and Kemble, and it made a strong impression on my mind at the time; I noticed in the Argus, the next day, Mr. Kemble's speech, in fulfilment of what Mr. Kemble was to do; the reason why I did not communicate the arrangement to

some of the Senators or the public was, that I did not think it was my business; I did not think it necessary to mention the above declarations of Bartow to the board; I had previously regarded Mr. Bartow as an honest man, and although I considered this arrangement with a Senator as improper conduct, it did not impair my confidence in his integrity, nor as an officer of the bank.

Question by J. C. Kemble. Did he, Bartow, say, that Mr. Kemble knew that he, Bartow, was speculating in Harlaem stock?

A. He did not, but my inference was, he, Kemble, did know. In the latter part of September, Mr. A. James handed to me a little paper, called the Herald, published in New-York, which charged Bartow with being concerned in stock operations, and the first time I went to the bank, I asked him what was the cause of the charge published in the paper, and he strongly denied that he was interested in stock operations. When I draw checks on the bank, it is not usual for me to make them payable to my own order and endorse them; the endorsing of checks by the drawer, is not in the usual form of drawing checks. Bartow was not authorized to discount notes, but sometimes did, which were afterwards sanctioned by the board. If I had believed that Bartow had made an arrangement with a Senator to delay the passage of a bill so that he, Bartow, and the Senator might receive profit from the arrangement, then I do not know whether I should have communicated it to the board for the purpose of having Mr. Bartow removed, or not; but if Bartow had given \$500 or any other sum of money to a Senator to control his vote, then I should have thought it my duty to have reported it to the board, and had Mr. Bartow removed. My inference that Mr. Kemble did know that Mr. Bartow was speculating in the Harlaem stock at the time the bill was pending in the Senate, is not founded upon any other facts than I have stated.

Q. by Mr. McKown. The credit of Messrs. Kemble and Bishop was not such at our bank as to have permitted them to overdraw to the amounts they have, if it had been known to the board; Mr. Kemble's credit was not good at our bank; his notes, or notes for his benefit, were offered at the bank a number of times for discount, and were generally refused, but were sometimes discounted at the pressing solicitation of the cashier; the notes were not for large amounts. No note of Mr. Bishop was ever, to my knowledge, offered at the bank for discount, and no inquiry was ever made as to Mr. Bishop's credit, at the bank.

Q. by Mr. Kemble. I do not know that any note of Mr. Kemble's discounted at our bank, was not promptly paid at its maturity; I have not examined Mr. Kemble's account at the bank. The rule of the Commercial Bank is not to discount foreign paper, unless both maker and endorser are considered responsible; this rule is sometimes overlooked; no individual in the city of Albany, would be allowed to overdraw his account to the amount of \$5,000 without security, for any length of time; by security, I mean paper left in the bank for collection or discount, or other security.

JOHN TOWNSEND.

Adjourned.

MONDAY 4 P. M.—MARCH 14th, 1836.

The committee met pursuant to adjournment.

Mr. Bishop introduces a letter written by Mr. Bartow, and dated the 30 July, 1835, which is admitted by the bank to be in the hand writing of Mr. Bartow, and marked as Exhibit F; also his account with the bank, which was admitted to be in the hand writing of the book keeper of the bank, and is marked as exhibit G.

Adjourned to Thursday, 4 P. M. next.

THURSDAY 4 P. M.—MARCH 17, 1836.

The committee met pursuant to adjournment.

Mr. Kemble and Mr. Bishop severally admits the letters having their respective signatures, accompanying the bank expose, to have been written by them.

Mr. Kemble opens his defence, and refers to Senate Journal of 1835, p. 238, April 13, 1835, et sequenda, for the purpose of showing his absence from the Senate on that day. There were seven divisions on that day, and Mr. Kemble's name does not appear in them. April 14, arrangements were made for Mr. Sudam's funeral, and Mr. Kemble's name is not mentioned in the proceedings. April 15, Mr. Kemble was present, and the first business in committee of the whole, was the Harlaem rail-road bill.

Elias Pattison being sworn, says, a friend of mine at Troy, in the early part of September last, asked me if I would loan him \$1,500, and I made him the loan of that sum. He said Mr. Kemble owed him \$1,000, which he, Mr. Kemble, would pay him when he could see him, (Mr. Kemble;) that he should go to New-York in a few days, and would see Mr. Kemble there; some two or three days after the loan, I said to the friend to whom I had made the loan, that I was going to Poughkeepsie, and I expected to meet Mr. Kemble there; he said if you see Mr. Kemble at Poughkeepsie, before I see him in New-York, tell him to give you the \$1,000 for me. I did go to Poughkeepsie, and met Mr. Kemble there; it was on a Saturday, and I think on the 5th Sep. last; I mentioned the thing to Mr. Kemble, and he gave me a \$1,000 check on the Commercial Bank of the city of New-York; Mr. Kemble told me that he had made arrangements with Mr. Strong, the president of the Commercial Bank of the city of New-York, to pay the check. The check at my request, was made payable to my order, instead of to bearer; on the next Monday, I caused it, together with other funds, to be deposited in the Farmers' Bank of Troy. The next time I heard of this check, was when I received notice of pro-

test for non-payment, which was 40 days or upwards after it was deposited; when I received notice of protest, I was in the city of New-York; I called at the Commercial Bank, in the city of New-York, on the same day I received notice of protest, and conversed with the president, Mr. Strong. He said provision had been made for the payment of that check by Mr. Kemble at the time it was drawn; that he, the president, had told the teller to pay the check if it should come.

ELIAS PATTISON.

Adjourned to Monday, 4 P. M.

MONDAY, 4 P. M.—MARCH 21st, 1836.

The committee met pursuant to adjournment.

The statement made by Mr. Winslow, was admitted by Mr. Kemble to be correct, as far as his name was mentioned or referred to, and was also admitted by Mr. Bishop to be correct, as far as his name was mentioned or referred to, and it was also admitted by the counsel for the bank, to be correct, as far as they were concerned. The statement is marked as Exhibit letter H.

Henry Lynch being sworn, says, I am a broker in the city of New-York, I have purchased stock on account of Messrs. Bishop, Bartow and Kemble; the first stock ever purchased by me on account of Messrs. Bishop, Bartow and Kemble, was on the 16 May, 1835. I never to my knowledge, purchased any stock, in which either Mr. Kemble or Mr. Bishop was interested, before the 16th May last.

Witness says that he purchased the following quantities of stocks at the times and prices below stated on account of Messrs. Bartow, Kemble and Bishop, as appears from a copy entry on his stock ledger produced before the committee. (Exhibit I.)

Witness says I have never purchased any stock on the joint account of those gentlemen, since the 26th May last. I have never purchased any since that period, for Mr. Bartow, in which either Mr. Bishop or Mr. Kemble was interested.

I have sold since the 26th May last, on account of Messrs. Bartow, Bishop and Kemble, 100 shares of the Morris canal stock, and 100 shares of the Harlaem. When the 100 shares of the Morris canal became deliverable, \$3,000 was paid to me on it by Mr. Kemble, and I hypothecated the stock for the balance remaining due, it being \$7,000, and by the direction of Mr. Bartow and Mr. Kemble, who were then together in my office. I purchased the Harlaem, at \$100, and sold it for \$112, and paid over the nett profit, being \$113.29 to Mr. Kemble's order. Of the 915 shares of Long Island rail-road stock, purchased, I transferred on the 29th May last to Mr. Kemble 200 shares, and on the 17 July last, I transferred the 715 shares, being the residue of the Long Island rail-road stock, to Mr. Henry Bartow; on the 17 July last, I received from Mr.

Bartow, John C. Kemble's power of attorney, for the transfer of 1,650 shares of the Long Island rail-road stock, which, together with the 715 shares above stated, I transferred to Henry Bartow on the same day, making in all 2,365 shares; Mr. Kemble was not present at this time. I received on the 10th June last from Mr. Delafield, by the order of Henry Bartow, 200 shares of the Utica and Schenectady rail-road stock. On the 1st June last, I transferred to Mr. Kemble the 200 shares of Utica and Schenectady, purchased, for which he paid me the money.

Q. by Mr. Bishop. On the 9th June last, Mr. Bishop remitted to me a check for \$715, from Albany, instead of \$5,465.13, which should have been sent, being for the 715 Long Island; and on the following day Mr. Bartow sent me \$4,750.13, being the balance of a check on the Bank of America.

[Mr. Lynch introduces two letters, one from Mr. Bishop and one from Mr. Bartow, marked as Exhibits J. and K.]

Witness says, Mr. Bishop did not pay me any money, nor give me any check for the stocks purchased, except the \$715 check mentioned in his letter. Mr. Bishop never received the avails of these stocks to my knowledge. I sold 20 shares of the Planters' Bank of Tennessee on account of Mr. Bartow. In the letter in which the \$715 was remitted, Mr. Bishop sent me a certificate of the 20 shares of the Planters' Bank of Tennessee, but he sent no power of attorney with it. I afterwards received from Mr. Bartow a blank power of attorney, signed by Mr. I. W. Bishop, and I afterwards sold the stock, and placed the proceeds, by the direction of Mr. Bartow, to Mr. Matthew Henry Webster's credit.

Q. by Mr. Kemble. Mr. Kemble never gave me a check on the Commercial Bank of Albany, nor on Mr. Bartow. In July last, Mr. Bartow came into my office with Mr. Webster, and told me that he, Webster, was worth \$30,000; that he, Bartow, was worth \$70,000, and that his, Bartow's, friends in Albany, would raise \$70,000 more, which sum of \$170,000, he would consider pledged to me as security for Mr. Webster's stock transactions, if necessary; and he said that he, Bartow, had no interest in these transactions himself, but that Mr. Webster was left as a sort of ward to him, Bartow, and that he felt as a guardian toward him. Witness says, I believed from representations made to me, and particularly from a letter which I had received from Mr. Webster, that Mr. Bartow was not at all interested in the Harlaem stock transactions. Both Mr. Webster and Mr. Bartow assured me that it was so, and I believed it, and I know nothing to the contrary now.

Witness says, the Morris canal stock has been sold in the stock market since May, 1835, at 99. Long-Island has been sold at 108 since that time. Utica and Schenectady has been sold lately at 129.

Q. by the Chairman. On the 5th August, I bought 50 shares of Farmers' loan scrip from Coster & Carpenter, at 118, payable on the 4th of September, bought at 30 days. On the 7th of October, bought 100 Long-Island, at option of buyer, 30 days, \$105, of J. D. Beers & Co. It is a usual custom in New-York, to buy or sell stocks on time.

The following extracts from the stock journal of Mr. Lynch, were taken:

"Messrs. Bartow, Kemble & Bishop, in account with Henry Lynch.

1835.

DR.

May 26.	To 100 shares Harlaem, paid for this day, at	
	109,	\$5,450 00
	10 days interest from 16th,	9 08
	Commission, $\frac{1}{4}$ pr. c. on purchase,	13 65
		<u>\$5,472 73</u>

CR.

By sales, 100 shares, at 112,	\$5,600 00
Less, commission, $\frac{1}{4}$ per sale,	14 00
	<u>5,586 00</u>

Bal. due me by B. K. & B.	<u>\$113 29</u>
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Paid over to J. C. Kemble, Esq.

1835.

DR.

May 28.	To 100 sh. Long-Island, @105 $\frac{1}{2}$,	\$762 50
	100,	103 650 00
		<u>1,412 50</u>

Com. $\frac{1}{4}$ per cent,	\$26 03
Less this am't on 100 shares, having exceeded his limits,	12 53
	<u>13 50</u>

\$1,426 00	1,426 00
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CR.

By Mr. Kemble's check for am't.	1,426 00
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June 8.

Dr.

To 75 sh. Long-Island, paid for this day, at	
	105, \$562 50
500 do do do	3,750 00
140 do do do	1,050 00
11 days int.	8 79
Add com.	93 84
	<u>\$5,465 13</u>

June 9.

CR.

By Mr. Bishop's check,	\$715 00
By H. Bartow's,	4,750 13
	<u>5,465 13</u>

1835.

June 15.	To cash pd. 100 shs. Morris canal,	\$10,000 00	
	30 days int.....	50 00	
	Commission, $\frac{1}{2}$,	25 12	
			<hr/> 10,075 12

June 18.

CR.

By J. C. Kemble's check on Commercial B'k, New-York,	3,000 00
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Bal. due H. Lynch, against 100 shares Morris canal,	<hr/> \$7,075 12
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The 100 shares Morris canal was hypothecated by me for \$7,000, and was sold on the 3d day of December last, at 75 $\frac{1}{2}$, which produced \$7,575. Including the interest and charges on the stock hypothecated, I lost \$67, for which I gave my check. The total loss on that operation, was \$3,067. The balance of \$67 I have never claimed. Witness says, that gambling in stocks is buying and selling stocks for cash or on time; and that a person may gamble in cotton or any other produce, in the same way. The prices of cotton and other produce do not fluctuate so much as the prices of some kinds of stocks. Any stock which has not an ascertained value, is a fancy stock: Utica stock I should not consider a fancy stock: Harlaem is a fancy stock. I do not consider Morris canal stock a fancy stock.

Q. by Mr. Bishop. Such things have been done, as for merchants to buy up flour, or some other articles, and then to sell on time. Last fall, when it was supposed that we should have war with France, some speculators bought up a large quantity of brandy and French silks, and salt-petre, in New-York, for the purpose of speculation.

Q. by Mr. Kemble. None of the stocks purchased by me for Messrs. Bishop, Bartow and Kemble, were bought for cornering purposes, to my knowledge or belief. I considered the Morris canal a safe investment at the time the stock was purchased. The reputation of the Utica and Schenectady rail-road stock stands high; and I believe it will be up to \$1.50 before the whole amount of capital is required to be paid in.

Question by Mr. Bishop. I have frequently bought and sold for one man in one day, stock amounting to over \$100,000; and I think I have bought and sold for one man in one day over \$150,000 cash stock. Sometime in November last, I furnished to Mr. Gilchrist, I think, a full copy of the account of Messrs. Bartow, Bishop and Kemble's stock purchases and sales, of which the account before testified to is a copy. I considered Mr. Bartow a man of fortune until he went away; I considered Mr. Bartow a man of undoubted honor, integrity and credit. At the time application was made to me by the bank for a copy of Messrs. Bartow, Bishop and Kemble's account, I informed some of the directors that I had no ob-

jection to furnishing the account, provided Mr. Kemble and Mr. Bishop had no objection; as I was going out of the back room of the bank, I met Mr. Kemble, and asked him whether he had any objections to my furnishing the account, and he said he had not, and presumed Mr. Bishop had not; I thereupon furnished the account to the bank.

Question by Mr. Livingston. The two hundred shares of Utica and Schenectady stock received 10th June last by me from Mr. Delafield, by direction of Mr. Bartow, were sold on 26th September last by me, and placed by Mr. Bartow's order to Mr. Webster's credit; this stock brought \$1.104.

Adjourned.

HENRY LYNCH.

TUESDAY, 4 P. M.—MARCH 22, 1836.

The Committee met pursuant to adjournment.

James G. Bennett, being duly sworn, says, I publish a paper called the New-York Herald. Witness says, I published an article in the month of September last, relative to the cashier of the Commercial Bank of Albany's speculating in Harlaem stock. Witness presents the number of his paper in which the said article was published, to the committee, dated September 18, 1835; said article is marked as Exhibit L. It was believed by the leading brokers in Wall-street, that Mr. Bartow was concerned in Harlaem rail-road transactions at the time of the said publication; Mr. Webster is the other person alluded to in the above article; it was understood that those transactions in Harlaem stock were very large, and that they comprehended a control over the whole stock; the Harlaem stock consisted of 10,000 shares at \$50 each, as witness supposes; it was supposed that a part of the capital used in the cornering operations must have come from the Commercial Bank of Albany; it was rumored in Wall-street, that to effect the above object, an operation was had with the Josephs' in Wall-street, by which money was raised; this operation is the loan from a private banking house in Wall-street, alluded to in the above article. Witness says, I published an article in my paper perhaps a fortnight or three weeks after Bartow absconded, charging Mr. Kemble with having overdrawn his account with the Commercial Bank of Albany, to the amount of \$4,000 or \$5,000; I obtained the information from two of the directors of the Commercial Bank of Albany; I think Mr. Gilchrist and Mr. Van Benthuyzen; neither of the directors stated to me that Mr. Kemble was concerned with Mr. Bartow in his absconding. Witness says, Mr. Gilchrist told me that the Regency was at the bottom of the whole scrape; Mr. Van Benthuyzen was not present; I told Mr. V. B. of the remark, and he laughed at it.

Question by Mr. Bishop. Witness says that the speculation in Harlaem stock, above alluded to, was more extravagant than any

other which had occurred the same season; there had been several cornerings that season, but this was the crowning glory; there was a blow-up about the close; it was rumored that Bartow and Webster had lost a large sum of money in consequence of that "blow-up." Bartow absconded about the time of the explosion.

Question by Mr. McKown. When you say it was supposed that a part of the capital used in the cornering operations in Harlaem stock came from the Commercial Bank of Albany, do you mean the committee to understand that it was at all rumored in Wall-street that that institution ever used its funds for the purchase of stocks; if yea, from whom have you heard it?

A. It was not supposed that the directors were concerned, but that the money came through Bartow, the cashier. Witness says, I never heard it said that the institution was concerned in the purchase of stocks; one of my objects in writing the article, was to bring the knowledge of Bartow's transactions to the directors of the Commercial Bank; I did not know at that time who the broker was that did Mr. Bartow's stock business; I cannot name the leading brokers who informed me of Bartow's stock transactions. I do not recollect the name of any individual who informed me that Bartow was concerned with Webster in stock operations. Some of the directors of the Commercial Bank, subsequent to the publication of the said article, called on me to ascertain the sources of my information; they made the inquiry of me; I told them they could get the information in Wall-street, the same way as I had got it, from the leading brokers; I do not remember whether I named any individual; it was after the absconding of Mr. Bartow, that the directors called on me; Mr. Gilchrist's remark about the Regency, was made in rather a jesting manner; it made no serious impression on me; my publication was entirely founded on the rumors of Wall-street, I not having any personal knowledge of the subjects alluded to.

JAMES G. BENNETT.

James G. Bennett, on being recalled, says in answer to a question put by Mr. Van Benthuyzen, I had received two or three anonymous letters, charging Bartow with stock transactions, which I read to Mr. Van Benthuyzen, and informed him was one of the sources of my information; but my principal information was derived from what I had heard in Wall street.

JAMES G. BENNETT.

Mr. Hastings being recalled, says as follows: I remember that a letter was received by the bank from Mr. Kemble, at or about the 21st January, 1836, of which the letter exhibited to the committee, marked as Exhibit letter M, I believe to be a copy. This letter was received by the bank after the petition to increase the capital of the Commercial Bank had been presented to the Assembly. Mr. Kemble stated to me, at or about the time of the receipt of the letter, that unless the bank answered the letter he should request the bank committee of the Assembly to address a like set

of interrogatories to the bank. I stated to the board the substance of what Mr. Kemble had communicated to me. After this time the petition was withdrawn from the Assembly and presented to the Senate; but not in consequence of the receipt of this letter from Mr. Kemble, which had no connexion with it.

SETH HASTINGS.

Henry Lynch being recalled, says, I was, during the summer and autumn of 1835, extensively engaged in the business of a stock broker. My business led me into extensive connexion with all the other stock brokers daily. I never heard or knew that it was rumored in Wall-street, during last summer and in the month of September last, that Mr. Bartow was extensively engaged in the Harlaem stock. My situation and business were such that if there had been a rumor prevalent of that kind I think it would have come to my knowledge. I recollect seeing the publication testified to by Mr. Bennett at the time it was published. Witness says, I supposed that the paragraph was made for public amusement, as I knew some of the matters stated in the paragraph were not true; and it made no impression on me at the time: if it had I should have taken a different course as regarded my own safety and proceedings.

Q. by Mr. Bishop. Witness says, a large amount of the Harlaem stock was purchased by me for an individual in the city of Albany, but not half the amount of the capital stock; whereas the publication states that three times the amount of the stock was purchased. I was almost, at the time referred to, the only purchaser of Harlaem stock at the board. I do not know how much Harlaem stock was bought up in the street at the time referred to.

Q. by Mr. Mack. It was generally understood among the brokers that I was purchasing Harlaem stock for Mr. Webster.

Q. by Mr. Bishop. The Harlaem stock, as published in Mr. Bennett's paper, run up to 190. Witness understands the article to allude to a cornering in the Harlaem rail-road stock. I presume that the statement that the Commercial Bank had performed its part, and that all the funds obtained from Albany were exhausted, is untrue. Witness says, that one of my reasons for considering the article untrue is that it charges the Commercial Bank, and the cashier of that bank, with stock transactions; whereas I have never known the bank to deal in stocks, and that all my business with Mr. Bartow was done with him as Henry Bartow, and not as cashier. I think that the check on the Bank of America, received from Mr. Bartow for the balance due on the Long-Island stock purchased for Messrs. Bartow, Bishop and Kemble, was drawn by Mr. Bartow as cashier of the Commercial Bank. Witness says, there were a number of drafts between myself and Mr. Bartow charged and credited to Mr. Webster's account, which drafts were signed by Mr. Bartow as Henry Bartow, and not as cashier, in the Harlaem stock transactions in July, August and September last. The whole capital stock of the Harlaem rail-road company, except about 95 shares, was under the control of the combination.

I think I had 2,500 shares under my own immediate direction, for my customers. I was not concerned in the combination one dollar any more than my agency and commission.

The individuals who composed the combination, agreed to purchase up, say 7,000 or 8,000 shares of the Harlaem stock, and then to buy on time. They did so, and I was employed to buy. I went to the board and bought largely and nearly all that was offered, and offered to buy more, cautioning them, the brokers, at the same time, that they were selling stock which they might not be able to deliver; but they sold ravenously. Sometime after the stock rose to 195, because the sellers could not find stock to supply their contracts, but the cornering did not take full effect as some of the combinators suspected that as several cornerings had failed, this might also fail, through the infidelity or inability of some of the parties concerned. In consequence of this, some of them did not keep their engagement, but sold the stock; by which means the sellers on time, procured stock in some instances, to make their deliveries of stock. After which, the whole amount of stock which was afloat, was bought up at very high prices, as high as 163, by the combinators, making up the 10,000 shares as above stated; and the price of 195 was fixed upon by the combinators as a settling price for the contracts to become due. At the expiration of the time for which the combination was made, which was three months from the 9th of July last, many of them were left with large quantities of the stock on hand, at the high prices paid for it from 118 to 163. The stock fell below 80, immediately after the combination failed. At the close of the combination, my customers had on hand nearly 3,000 shares.

HENRY LYNCH.

Matthew H. Webster being sworn, says: I have heard Mr. Lynch's testimony given on the subject of the combination in the Harlaem stock, read; I know that Henry Bartow was interested in the result of that combination. Henry Lynch bought some stock in which he, Bartow, was interested. I heard Mr. Bartow deny to Mr. Lynch that he was interested in the purchase of the stock, and I am convinced that Mr. Lynch believed Mr. Bartow's statement. None of the stock was bought by Mr. Lynch in the name of Bartow. Mr. Bartow was interested in the stock alluded to by Mr. Lynch, which had been bought at high prices. Mr. Bartow was interested in over 2,000 shares at the time alluded to. I heard Mr. Bartow ask Mr. Lynch whether he was involved in other things in which he might fail, and Mr. Lynch answered none, except Harlaem. Mr. Bartow then told him that he should not fail on that. This assurance of Mr. Bartow's related to the hypothecated stock, or to a part of it, over which Mr. Lynch had control. The Harlaem stock transaction is not, to my knowledge, yet settled, and I do not know what final loss there will be, or may have been upon it.

MATTHEW HENRY WEBSTER.

Cross examined by Mr. Bishop. Witness says: I do not know, nor believe, that either Mr. Bishop or Mr. Kemble was interested in the Harlaem transaction above referred to. If a loss had occurred on the Harlaem stock, in which Mr. Bartow was interested previously to his going away, he would have borne the whole of it; but if any loss had occurred by sacrifice of the stock hypothecated, none of it would have fallen on Mr. Bartow. Such loss would have fallen immediately on Mr. Lynch, who would have looked to his principal, which was not Mr. Bartow. Mr. Bartow went into this Harlaem combination in my name, I being then out of the State, and did not know, and was not consulted about, the transaction until I returned. Mr. Bartow made advances of money in the Harlaem combination. I know that Mr. Bartow advanced, in that transaction, \$60,000, in two sums. I think that that sum was all advanced by Mr. Bartow, in the Harlaem transaction, through me. I may be mistaken, as I have not seen the papers for some months. Whatever Mr. Lynch may have placed to my credit in the shape of stock, or the proceeds of stock, was not included in the \$60,000. I saw Mr. Bartow receive \$10,000 on a hypothecation of something over 2,000 shares of Long-Island stock, a short time before he went away. The \$60,000 was put to my credit. At the time Mr. Bartow went away, he had not received a cent of the \$60,000 in cash, but a part of it may have gone toward the payment of negotiable paper in which he was interested. I apprised the Commercial Bank of all these facts, after Bartow had absconded.

Examined by Mr. Kemble. I think I saw Mr. Bartow hand the check for \$10,000 received on the hypothecation of the Long-Island stock, to Mr. Lynch; on the day Mr. Bartow left New-York, he put into my hand certificates of stock to the amount of \$25,000.

Examined by Mr. Van Schaick. This \$25,000 of stock enabled Mr. Lynch to take up 500 shares of Harlaem stock, which had been hypothecated at par, and was used for that purpose. I believe Mr. Lynch re-hypothecated the Harlaem stock taken up; Mr. Bartow never received any part of the proceeds of the \$25,000 stock; Mr. Bartow did not receive back any part of the \$10,000 of Long-Island stock. Adjourned.

WEDNESDAY, 4 P. M.—MARCH 23, 1836.

The Committee met pursuant to adjournment.

The examination of M. H. Webster being resumed, he says as follows:

In the bank expose, document D is his hand writing; says it was made in June, probably; has no distinct recollection when; it was made at Mr. Bartow's request; supposes it was made from letters and statements furnished by Bartow; thinks Mr. Bartow told him that the list of stocks in document D, was held by the parties whose initials are in said document; witness has no very distinct recollection of this; it is merely his impression.

Question by Mr. Bishop, on the subject of last evening. Did Mr. Bartow design, when first engaged in the Harlaem stock, to go into it as largely as he finally did?

Witness says Bartow did not contemplate advancing money beyond \$9,000; Bartow was induced to go farther into the speculation to save what was advanced, under the belief, if he did not, what he had already advanced would be lost; Bartow frequently told witness that he could raise 1 or \$200,000, which he believed; witness knows that Bartow met with losses on Utica and Schenectady stock in September last, to about 3 or \$4,000; Bartow also lost on Long-Island about 2 or \$3,000 in September; Bartow probably lost also on other stocks, about 2 or \$3,000; witness says the above are high estimates of his losses. The Long-Island stock, on which he raised \$10,000, was the stock in which Mr. Kemble was interested, as he understood from Mr. Bartow, and also from Mr. Kemble.

The amount of \$60,000 consisted of two drafts, one of \$40,000 and one of \$20,000, drawn by Bartow, cashier of the Commercial Bank, on the Bank of America.

Question by Col. McKown. Do you know whether the whole or any portion of the \$60,000 went to meet or extinguish liabilities of Bartow other than for the purchase of stock in the Harlaem combination?

Witness thinks \$15,000 was passed to the credit of the Harlaem combination; the remaining \$25,000 of the \$40,000 may have gone to another account.

Question by Mr. Bishop. Did the \$60,000 all go to pay either for Harlaem stock or for other stocks which you have spoken of, upon which Bartow lost money?

Witness answers, his impression is, that it did.

Witness says, the \$9,000 paid the Josephs' at the commencement of the cornering operations, was by a draft of Henry Lynch upon Bartow, which was accepted by Bartow and paid. The Josephs never paid Bartow back any part of said \$9,000 to his knowledge; this \$9,000 was raised on a note on which Bartow's name did not appear, which note was discounted at the Commercial Bank; the funds to pay said note were derived from sale of stock in which Bartow was interested.

MATTHEW HENRY WEBSTER.

James Taylor produces Exhibit N, and was sworn.

Witness says he is the present cashier of the Commercial Bank of Albany; the statement produced and signed by him of the losses sustained, and liabilities incurred by the Commercial Bank of Albany, in consequence of the fraudulent transactions of Henry Bartow, late cashier of said bank, is to the best of his knowledge and belief correct. This statement was made out from the books and papers of the bank to meet the views of one of the committee, Mr. Van Schaick, who wished a detailed statement of the losses of the bank, by Bartow, including sums and dates. I have appended such explanatory matter as would make it more easily understood,

derived from the teller of the bank, and from one of the committee of investigation, who went to New-York to endeavor to ascertain the actual state of the affairs of the bank in relation to the fraudulent transactions of the late cashier.

J. TAYLOR.

Mr. Van Benthuyzen, says the explanation in regard to the two sums of 20 and \$40,000 on the statement furnished by Mr. Taylor, (marked exhibit N) were obtained from the books of Mr. Nevins, the checks of Mr. Webster and the check of Mr. Nevins; the explanation relative to the sum of \$12,523.04, as far as relates to the city of New-York, is also correct.

O. R. V. BENTHUYSEN.

Mr. Bishop objects to the proof here offered, of the declarations made by R. L. Nevins, to Mr. Van Benthuyzen, and also that he exhibited checks signed by Bartow, on the ground that Mr. Nevins ought to be produced to prove these statements and exhibit those checks if in existence.

Thereupon the committee decided that they would receive the testimony.

A. H. Lovett, teller of the Commercial Bank, re-examined, says the explanations contained in said statement, marked N, in reference to the sum of \$53,644.93 is correct, except he desires to substitute the word "*impression*" for the word "*belief*," in reference to their being one other check drawn by Mr. Bishop; and I refer to my former testimony on this point. Witness has no reason to alter the testimony heretofore given by him.

A. H. LOVETT.

Adjourned to meet at Commercial Bank to-morrow, at 3 P. M.

THURSDAY, 3 P. M.—MARCH 24, 1836.

The committee met at the Commercial Bank.

Q. by Mr. Bishop. Alexander H. Lovett, being re-called, says, on being shown a check, of which the following is a copy:

(Pencil mark.)

"\$1,000.

"*New-York, May 15, 1835.*

Cashier of Commercial Bank, Albany, pay A. B. or bearer, one thousand dollars.

HENRY BARTOW.

Pr. ISAAC W. BISHOP.

(Endorsed,) Pay T. W. Olcott, Esq. cash or order.

H. CURTISS, Cr.

E. OLCOTT, Teller."

I must have paid this check, by Mr. Bartow's order, for if he had not directed me to pay it, I should not have done so; this check was charged to Mr. Bartow's account, on the 18th May, 1835.

Examined by Mr. Van Schaick. The check for \$7,000 in the

package was not signed, Henry Bartow, pr. Isaac W. Bishop, as this check is, but was signed either Isaac W. Bishop, or I. W. Bishop, and cannot tell which.

A. H. LOVETT.

The committee adjourned to the Mansion House.

Examination at the Mansion House.

Examined by Mr. Kemble. George D. Strong, being sworn, says, I am president of the Commercial Bank of the city of New-York; Mr. Kemble, about the first of September last, called on me, and wished to make a loan from the bank; witness says, that the statement made in the letter marked as Exhibit letter P, written by him on November 19, 1835, to the Hon. John C. Kemble, is true. Witness says, that the account marked as Exhibit letter O, is a true transcript of Mr. Kemble's account with the Commercial Bank of the city of New-York, taken from the books of the Commercial Bank. I spoke to the teller on the same day that Mr. Kemble made application to me for a loan, and directed him to pay Mr. Kemble's check if presented; Mr. Kemble left the stock and a small note with me at the time the negotiation was made, upon which he wished the loan to be made. Mr. Kemble's account at the Commercial Bank in New-York, was good for \$1,000 from the 12th of Sept. to the 12th of Oct. last; a balance of \$586.19 remained due Mr. Kemble from the 12th to the 21st Oct. last.

GEO. D. STRONG.

Examined by Mr. Bishop. William P. Hallett being sworn, says, I was one of the commissioners to distribute the increase capital stock of the Harlaem rail-road last spring. I have examined the subscription books of the company and have not found that either Mr. Bishop or Mr. Kemble were applicants or recipients of any of the stock. Henry Bartow subscribed for 100 shares of the stock and 10 or 20 shares of stock were allotted to him as appears by the book.

Examined by Mr. Kemble. The applications for subscription to that stock were principally made by printed letters; there may have been some written letters.

Mr. Bishop. The commissioners gave stock to a large majority of the subscribers.

W. P. HALLETT.

Examined by Mr. Bishop. Nathaniel F. Waring, of Brooklyn, being sworn, says, a few days before the adjournment of the Legislature last spring, I was in Albany, and I found Mr. Bishop had gone to New-York when I arrived here; I then within a day or two returned to the city, in quest of Mr. Bishop, and found him at the City Hotel in New-York. I earnestly entreated Mr. Bishop to return to Albany, but he declined, and said he did not intend to return during the remainder of the session, and I think, said he was going south. I called on Mr. Bishop again, and after making

[Senate No. 95.]

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very strong solicitations, he finally agreed to return to Albany, and did return to Albany that afternoon. My object in getting Mr. Bishop to go to Albany was to be in the Senate on the final passage of the bill regulating ferries between the cities of New-York and Brooklyn. This was two or three days before the adjournment of the Legislature; I think about the 8th or 9th of May last.

NATHANIEL F. WARING.

Joseph E. Bloomfield, being sworn, says, I was in Albany last spring, when the Harlaem rail-road bill passed the Legislature; I felt an interest in the passage of that bill; I recollect Mr. Kemble made a motion to rise and report, when the Senate were in committee of the whole on that bill. I left Albany on the next morning at day break for Troy, and saw Mr. Kemble there; I asked him the cause of his opposition to the bill; he replied that the bill had got the advantage over a favorite bill of which he had charge, in consequence of his absence. Mr. Kemble told me there would be no difficulty at the final passage of the bill. This took place about the middle of April.

JOSEPH E. BLOOMFIELD.

djourned, &c.

MONDAY, 4 P. M.—MARCH 28, 1836.

The Committee met pursuant to adjournment.

James McKown being called as a witness and sworn, says as follows: I have known Henry Bartow since the year 1826; his character has stood high as a financier since he became cashier of the Commercial Bank. I got the impression from those who ought to know best, that Mr. Bartow was worth from 25 to \$30,000, and I had no doubt of the fact myself.

JAMES MCKOWN.

Mr. Bishop referred the committee to Assembly Journal of 1835, p. 568, in which will be found the division on the bill to increase the Harlaem rail-road stock, passed April 9, 1835—Yeas 111, to 5 nays. Mr. B. also refers to Senate Journal of 1835, p. 266, by which it appears that the bill passed by 27 affirmative and no votes in the negative.

Jacob Holmes being sworn, says, I resided in Granville, Washington county, in the summer of 1835; I lived in the same village with Mr. Bishop; in the fore part of June last Mr. Bishop returned to Granville; Mr. Bishop, for a considerable time after his return, was confined to his house by indisposition; Mr. Bishop did not leave home until the Thursday previous to the meeting of the Court of Errors in the city of New-York; my impression is that Mr. Bishop came home in about two weeks afterwards; Mr. Bi-

shop did not leave home again until some time in October last, when he and I went to New-York together.

JACOB HOLMES.

Adjourned until to-morrow, 4 e'clock P M.

TUESDAY, 4 P. M.—MARCH 29th, 1836.

The Committee met pursuant to adjournment.

Mr. Kemble refers to Senate Journals, 1835, from page 238 to page 247, including the 13th and 14th days of April last, for the purpose of showing that he, Mr. Kemble, was absent from the Senate on the 13th and 14th days of April last. He also refers to page 254 of the same Journal, to show that the Harlaem rail-road bill was the first business taken up in committee of the whole on that day, to wit, the 15th April.

Mr. Charles Hooper being sworn, says, I reside in Troy, and am in partnership with Mr. Kemble in the printing business; I recollect that Mr. Kemble was in Troy on the 13th of April last, and assisted me in preparing an article for the newspaper.

Examined by Mr. Reynolds. I have no means of knowing whether Mr. Kemble received a letter from Mr. Bartow that day or not, or saw Mr. Bartow that day or not.

Examined by Mr. Kemble. I never knew Mr. Kemble to receive a letter from Mr. Bartow.

Examined by Mr. Reynolds. I think I know of Mr. Kemble's receiving a protest with Bartow's name attached to it, but am not positive.

CHAS. HOOPER.

Stephen Warren being sworn, says, I reside in the city of Troy; some time in the spring of 1835 I called on Mr. Kemble, I think before breakfast, at the request of Mr. Cannon, who I understood was requested by Mr. Bloomfield to get Mr. Kemble to withdraw his opposition to a certain rail-road bill, in which Mr. Bloomfield manifested a very great interest. I inquired of Mr. Kemble what was the cause of his opposition to the bill; he said that it had got ahead of our Troy and Schenectady rail-road bill in the House, and had got out of its order in the Senate; and I understood Mr. Kemble to say, generally, that he had no objection to the bill, except that it had got ahead of other bills which were before it on the general orders of the House of Assembly.

S. WARREN.

Elias Pattison being recalled, says, I subscribed for some stock of the Harlaem rail-road company at the opening of the books last spring; I subscribed personally, being in New-York on business; I subscribed for 80 shares; five shares were assigned to me; I re-

turned home, I think, before the stock was distributed; I wrote to Mr. Kemble, who was in New-York, to receive my scrip for the stock and the overplus money coming to me; when I understood I had but five shares, I wrote to Mr. Kemble to sell those shares; Mr. Kemble sold them and remitted me the money immediately, or very soon after I wrote him; I subscribed for the stock on the 15th May last, and on the 27th I received from Mr. Kemble the avails of the stock; I am a joint assignee with Mr. Kemble of the stock of a bookseller in Troy, who had failed; witness solicited Mr. Kemble, soon after the adjournment of the Legislature, to go to New-York for the purpose of closing up the affairs of the said bookseller, and Mr. Kemble did go.

ELIAS PATTISON.

Daniel Gardner being sworn, says, I reside in the city of Troy; shortly before the books of the Harlaem rail-road stock were to be opened last spring, I handed Mr. Kemble \$600, I think, in money, knowing he was about to go to New-York, and requested him to subscribe for some stock in my name; I afterwards wrote to Mr. Kemble not to subscribe for the stock, or, if he had subscribed, to withdraw the subscription, I having no confidence in the stock; on the day after I wrote, I went to New-York myself, on my way to Connecticut; I learned from Mr. Kemble that he had subscribed for stock, and that it was too late to withdraw the subscription, as the books were closed; he said he would take any stock which might be assigned to me, and would pay me the money back which I had handed him, which he then did, except \$150, or thereabouts, which \$150 he subsequently refunded me; I gave Mr. Kemble, shortly afterwards, a power of attorney to receive the scrip and dispose of it.

DANL. GARDNER.

John F. Bacon being called and sworn, says, on a reference to the minutes of the Court for the Correction of Errors, I find that Mr. Kemble was absent, from the 17th September last to the 3d October, during the last session of the Court at New-York.

JOHN F. BACON.

Ebenezer Mack being sworn, says, during the last session of the Court for the Correction of Errors, at New-York, Mr. Kemble boarded with me at the Franklin House, in the city of New-York; Mr. Kemble was absent from sometime in September to about the first of October last, being the time alluded to by Mr. Bacon, in his testimony; Mr. Kemble requested me to take charge of his letters in his absence, and direct them to him at Ipswich, Mass., which I did do; I afterwards understood from Mr. Kemble, on his return, that he received the letters.

EBEN. MACK.

Heman Cady being sworn, says, I reside at Plattsburgh; about the first of June last, I was at the City Hotel, in New-York, and Mr. Kemble handed me a package and requested me to deliver it

to Mr. Bartow, at Albany, as soon as I should arrive; Mr. Kemble told me it contained scrip of stock, which he, Mr. Kemble, had been buying for Mr. Bartow; I know that Bartow received the package the next day.

H. CADY.

Adjourned.

WEDNESDAY, 4 P. M.—30th MARCH, 1836.

The committee met pursuant to adjournment.

John C. Kemble being sworn, says:

Question by Mr. Davis. Did Mr. Bishop ever have any conversation, arrangement or understanding with you on the subject of the passage of the Harlaem rail-road bill, previous to or at the time of its passage last spring?

Answer. He never had any arrangement or understanding with me previous to its passage; nor any conversation that I recollect, except on the morning of the 16th April, when I returned from Troy, when he asked me why I had made such violent remarks against the bill.

Q. Have you any knowledge that Mr. Bishop was interested in the purchase or sale of any Harlaem stock previous to the adjournment of the Legislature?

A. I have not.

Q. Was the Harlaem stock alluded to in Mr. Winslow's statement, the stock of Bartow, Gardner and Pattison, and did it amount to 45 shares?

A. I am sure that 5 shares of it were the stock of Mr. Pattison, and I am quite confident that 20 shares of it had been assigned to Mr. Bartow, and the remaining 20 shares stood in the name of Mr. Gardner.

Q. Was the Harlaem stock alluded to by Bishop, as upon subscription, in his letter of the 26th May last, the said 45 shares?

A. I think that that letter of Mr. Bishop to Mr. Bartow was written in my room in the City Hotel in New-York, and that the information relative to the Harlaem stock on subscription contained in that letter, was there conveyed by me to Mr. Bishop.

Q. Did you ever pay to Mr. Bishop any money realized from the draft drawn on cashier Bartow; or on the Commercial Bank, before spoken of, or from the profits derived from any sale of stocks purchased therewith?

A. I have no recollection that I ever did.

Q. Did you receive the money on the \$7,000 draft drawn by Mr. Bishop on Mr. Bartow?

A. Mr. Bishop drew the \$7,000 draft on Mr. Bartow, and gave it to me. I used the amount of it in the purchase of stocks, which were sent to Mr. Bartow.

Q. Were all the stocks purchased with the money drawn from the Commercial Bank, assigned or delivered to Mr. Bartow?

A. I never drew any money from the Commercial Bank to my know-

ledge, on the checks alluded to in the Bank expose as having been sealed up in a package. The amount of the drafts which were drawn, as I understood, on Mr. Bartow, was invested in stocks purchased for him, and the scrip of the same sent to him, except 200 shares of Utica and Schenectady, which were left with Mr. Delafield, cashier of the Phenix Bank.

Q. Were the stocks delivered to Mr. Bartow worth in the market at the time of their delivery to him, what had been paid for them?

A. They were purchased at the lowest market prices, and were immediately sent to him. I cannot say that the same kinds of stock sold for a greater or less price on the day they were sent.

Q. Did you get from Mr. Bishop the information communicated by you to Mr. Schoolcraft, that the Harlaem stock would be a money-making business?

A. I did not; I think some New-York gentlemen communicated that information to me on the day I made some remarks against the bill.

JNO. C. KEMBLE.

Examined by Mr. Reynolds. Q. From whom did you receive the money on the check for \$13,144.93 contained in the package?

A. I think it was from Mr. Delafield, cashier of the Phenix Bank, with whom I left 200 shares of the Utica stock as collateral security, subject to Mr. Bartow's order. I do not recollect what stocks I purchased with the avails of that check; but I think the 200 shares of Utica left with Mr. Delafield, constituted a portion. I drew this draft to pay balances due on stocks deliverable that day; I think Mr. Bishop was aware of the purpose for which I drew the check, and I think he endorsed it, though I am not sure that he did. The two other checks said to be contained in the package, the one for \$7,000 and the other for \$6,500, were, on the same day they were drawn, deposited to my credit in the Commercial Bank of New-York; the proceeds of these checks were used to pay for stocks purchased on or before the day they were drawn, or sometime about the day they were drawn; Mr. Bishop was aware of the object for which these checks were drawn.

Q. What did you do with the proceeds of the check for \$500 dated May 2d, 1835, drawn on the Commercial Bank of Albany?

A. I do not recollect distinctly what use I made of the money received from that check; I paid to Mr. John P. Cushman and Mr. Isaac McConihe, about that time, some money for stock in the Washington and Saratoga rail-road company, and it may have been for that.

Q. Why have you heretofore said, before this committee, that you would not pay this check?

A. I understand the interrogatory to be put for the purpose of obtaining information from me by the bank, which might make me liable in an action; and I have my own reasons for declining to answer it. I do not recollect that Mr. Bishop had any interest in this check, nor do I believe he had.

Q. What did you do with the proceeds of a check for \$1,100, dated May 4, 1835, and drawn by you on the Commercial Bank of Albany.

A. I gave the proceeds to Mr. Bartow, in his own hands. The books of the Washington and Saratoga rail-road company were open at Troy, and but very few subscriptions obtained there. Mr. Delafield sent up an

agent from New-York and subscribed for the whole of the stock, except 35 shares. The commissioners declined to give Mr. D. the whole of the stock, unless he would consent to give \$100,000 of the stock to such of the citizens of Troy as might apply for it. Mr. Bartow stated to me one evening, when I was going to Troy, that he had spoken to Mr. J. P. Cushman, of Troy, to give him some of that stock; and wished me to see either him or Judge McConihe, and request them to give him some. He said I might draw a check on him or on his bank, and use, in Troy, the money to pay Messrs. McConihe and Cushman for his subscription. I accordingly drew the check in Troy, and cashed it at the Farmers' Bank. Messrs. McConihe and Cushman did not give Mr. Bartow any stock, and I afterwards paid him the sum, \$1,100, back.

Q. Why did you not ask Mr. Bartow to return the check when you returned the money?

A. I did ask him, and he told me he had torn it up, and that it was not charged to me. I do not recollect that any person was present when I paid Mr. Bartow this money; I gave it to him in the front room of the City Hotel, and he said no receipt was necessary, as he had only kept a pencil memorandum of it.

Q. What did you do with the proceeds of your check, drawn on the Commercial Bank of Albany, for \$1,600, dated the 15th of May, 1835?

A. The check drawn by me for \$1,600 on the cashier of the Commercial Bank of that date, was deposited in the Commercial Bank of New-York, to my credit, and the amount of the same used in the purchase of stock for Henry Bartow, which was sent to him. I cannot tell precisely what stock I purchased with that check, but I think it was either Long-Island or Utica stock. I have no recollection of purchasing any stock for Mr. Bartow before the date of this check.

Q. Why did you draw a check for precisely that amount at that time?

A. My impression is, that I had spoken to a broker to purchase some stock for Mr. Bartow at that time, which would have amounted to about that sum, and I wished to have the money ready to pay for it. I can not now think of any other stock purchased by me for Mr. Bartow, than the stock testified to in the statements of Messrs. Winslow and Lynch.

Q. From whom did you get the information that the lobby members were returning to New-York under the expectation that the Harlaem rail-road bill would not pass?

A. I think it was after the remarks I made on Wednesday, the 15th, against the Harlaem bill, in committee of the whole: I was called into the lobby of the Senate, where a man by the name of Hitchcock, and two or three other gentlemen, who he said were from New-York, with him; and he, or one of them, expressed their gratification that I was opposed to the bill, and said they had come up on purpose to oppose it, and now that I was opposed to it, they were sure it would be defeated, as they had seen a sufficient number of other Senators opposed to it to defeat it. And I think I saw some of them on board the boat, going to New-York, on that afternoon, and that was the reason why I told Mr. Schoolcraft that some of the lobby were going to New-York, under the expectation that the bill would not pass.

Q. What was the information you had received, which induced you to make the statement to the Senate, at the time you announced the withdrawal of your opposition to the bill?

A. Immediately after my remarks in opposition to the bill, on the 15th, I was introduced to two gentlemen then in the Senate Chamber, who were represented to be directors in the Harlaem company, from New-York, and they gave me reasons in favor of the bill, with which I was not before acquainted. Mr. Bloomfield, of New-York, came up to Troy the next morning, and gave me other reasons in favor of the bill, and requested me to state publicly, in the Senate, that I would not oppose it. An impression had gone abroad that I was opposed to the bill; and I think that the Hon. Mr. Livingston, of the Senate, had returned from New-York on the 16th, and stated to me that the application was a proper one, and ought to pass.

I heard the testimony of Mr. Warren, and believe the same to be substantially correct, so far as regards his call on me at the Troy House. I think the expression in the letter of the 26th May last, relative to Harlaem stock, relates to the 45 shares before testified to, and 100 shares of Harlaem, purchased by Mr. Lynch, on 10 days time. I do not recollect whether I had or had not any interest in the 175 shares of Long-Island stock obtained upon subscription.

Q. On whose subscription were the 70 shares of Harlaem stock obtained, stated in the letter of the 25th May last?

A. On that day, if I remember right, the Harlaem stock had not been delivered. I understood that 50 shares had been assigned to Mr. Gardner and 20 to Mr. Bartow, and that is probably the reason why 70 shares is named in that letter. I heard the testimony of Mr. Gardner, and do not remember that the same is in any particular materially incorrect.

Q. How did you obtain the Long-Island rail-road stock, which you speak of in your letter of the 25th of May last?

A. Not recollecting what Long-Island rail-road stock I spoke of in that letter, I cannot answer the question.

JNO. C. KEMBLE.

Adjourned until to-morrow, 4 o'clock P. M.

SATURDAY, 4 P. M.—APRIL 23, 1836

The committee met pursuant to adjournment.

Isaac W. Bishop being called as a witness, and duly sworn, did depose and say as follows:

Examined by Mr. Kemble. I saw the package of stocks sent by Mr. Kemble to Mr. Bartow, by the hand of Heman Cady, in June, 1835. It is my impression, that the scrip for 100 shares of Utica and Schenectady stock was in that package. I saw Mr. Cady give the package to Mr. Bartow, and saw him, Bartow, open it. The package contained also the scrip for 20 shares of the Planters' Bank of Tennessee, and the scrips for some stock of the Long-Island, how much I do not know. Mr. Kemble did the principal part of the purchasing of stock in New-York.

Q. *by Mr. Kemble.* Had you any understanding or agreement with me, relative to what course I should pursue in the Senate, relative to

the Harlaem rail-road bill, previous to the time when I moved to rise and report, when in committee of the whole, on that bill?

A. I had not.

Q. When was the first conversation you had with me on that subject?

A. After you had made your remarks against the bill, calling it a Jew's-harp, &c.

Q. Have you any knowledge of my having any dealings in stock during the last session of the Legislature?

A. I recollect that you told me that you had got, or subscribed for some stock in the Saratoga and Whitehall rail-road company. I know of no other dealings which you had in stocks during the last session of the Legislature. I understood the subscription books for that stock were opened at Troy. The bill to incorporate that company, passed two or three years ago. I do not recollect the year.

Q. by Mr. Livingston. What reason did Mr. Kemble assign to you for his opposition to the bill?

A. I think he stated, that he meant to show the New-Yorkers that they could not get their bills ahead of his; but he gave me to understand, that he should not eventually oppose the bill. Whether what I have stated respecting the New-Yorkers getting their bill ahead of his, I am not certain that he told me at the time, but I may have derived this impression from what I heard since.

Q. by Mr. Livingston. Did Mr. Kemble ever admit to you, that he had any interest in stocks previously to the adjournment of the Legislature last spring, except the Saratoga and Whitehall rail-road stock?

A. He never did.

Q. by Mr. Mack. When did Mr. Kemble, to your knowledge, first become concerned in the purchase of stocks, other than the Whitehall and Saratoga?

A. In the month of May last, after the adjournment of the Legislature, in the city of New-York, being the same alluded to in the letters of Mr. Kemble and myself to Mr. Bartow, which have been presented to the committee. The understanding for the purchase of the Long-Island stock was made on the day the Legislature adjourned, or a day or two before.

Q. by Mr. Kemble. State what that understanding was.

A. On the day of the adjournment, or a few days before, Mr. Bartow called on me at my room, and requested me to go with him to Mr. Kemble's room, which I did. He said the books of the Long Island rail-road company were to be opened the next week; that he had learned that Mr. Delafield, Gov. Throop, Samuel Hicks and others, had the control of it; that he had understood, from Mr. Kemble, that I was going to New-York, and that he wished Mr. Kemble and myself to call upon Mr. Delafield and others, and if they thought it was a good investment, he would furnish the money to purchase that stock, and that he would pay us for our trouble, or give a share of the profits. Mr. Bartow had before that time, left boarding at the City Hotel, and had taken a house; he left the City Hotel on or about the 1st May. I replied to Mr. Bartow, that I was going to New-York, and when Mr. Kemble came down we would attend to it.

Examined by Mr. Reynolds. I received two or three letters from Mr.

Bartow, on the subject of our stock transactions; one of which I have produced to the committee. My impression is that I saw one or two letters in Mr. Kemble's hands, written by Mr. Bartow to him.

ISAAC W. BISHOP.

John C. Kemble being re-examined, says as follows:

Q. by Gen. Davis. Was Mr. Bishop in the city of New-York when the draft for \$13,144 was drawn, by you referred to on your previous testimony?

A. Since my direct examination, from evidence furnished me, I am now of the impression that Mr. Bishop was not in New-York when I drew the said draft.

JNO. C. KEMBLE.

Matthew Henry Webster, being recalled, deposes and says as follows: on Monday the 13th or 14th of April, 1835, Mr. Bartow informed me that Mr. James was going to New-York, and was to purchase Harlaem rail-road stock, in which he, Bartow, and Mr. Bishop were to be interested.

MATTHEW HENRY WEBSTER.

James B. Murray being sworn, says, I had a conversation with Mr. Kemble, in relation to the Harlaem rail-road bill, on the same day when he made remarks against the bill, and moved to rise and report on it. I thought that his remarks reflected on the original corporators of the bill, among whom were Mr. Emmett and myself, and we were both present when this discussion took place. I called on Mr. Kemble, at his lodgings in the City Hotel, immediately after the morning session of the Senate, with a view of removing any erroneous impressions he might be under in relation to the corporation, or any of its directors. I inquired of Mr. Kemble what were his objections to the bill. Mr. Kemble told me that he was under some excitement, at the time of making his remarks in the Senate, and that he understood that the bill was originally got through by the influence of M. M. Noah; that he had written to New-York for information, or expected information from there; that he did not wish to delay the bill but for two or three days. I left him with an impression that he would not be opposed to the bill on its final passage.

Examined by Mr. Kemble. I remember that Mr. Kemble stated that he had been absent for a short period previous, and did not wish to have the bill hurried. I recollect that Mr. Kemble made two motions to rise and report, the first of which motions was negatived, and the other was carried. The remarks which Mr. Kemble made were on the second motion. There were several persons from New-York attempting to oppose the passage of this bill. Myrtle B. Hitchcock was one. I think I stated to Mr. Kemble that I was going to New-York that afternoon.

JAS. B. MURRAY.

SCHEDULES AND EXHIBITS

Referred to in the Commercial Bank investigation.

SCHEDULE A.

April 6, 1835.

Cashier of the Commercial Bank, pay to E. or bearer two hundred dollars — cents.

200 dollars — cents.

JNO. C. KEMBLE.

Albany, April 8, 1835.

\$330. Cashier of the Commercial Bank, pay to E. F. or bearer, three hundred and thirty dollars.

JNO. C. KEMBLE.

Albany, April 15, 1835.

Commercial Bank, pay to ——— or bearer, one hundred and seven dollars.

107 dolls.

JNO. C. KEMBLE.

Albany, April 29, 1835.

Commercial Bank, pay to ——— or bearer, one hundred and sixty-five dollars.

165 dolls.

JNO. C. KEMBLE.

Albany, April 29, 1835.

Commercial Bank, pay to ——— or bearer, three hundred and seventy dollars.

370 dolls.

JNO. C. KEMBLE.

Albany, April 27, 1835.

461.58. Cashier of Commercial Bank, pay A. B. or bearer, four hundred and sixty-one dollars and fifty-eight cents.

JNO. C. KEMBLE.

Albany, June 25, 1835.

Commercial Bank, pay to J. C. K. or bearer, three hundred and sixty dollars.

360 dolls.

JNO. C. KEMBLE.

Albany, July 25, 1835.

Commercial Bank, pay to A. B. or bearer, four hundred and fifty dollars.

450 dolls.

JNO. C. KEMBLE.

Albany, Sept. 7, 1835.

Cashier of the Commercial Bank, pay to ——— or bearer, two hundred and thirty-one dollars.
\$231.

JNO. C. KEMBLE.

SCHEDULE B.

Albany, May 2, 1835.

Commercial Bank, pay to I. W. Bishop, or order, five hundred dollars.

500 dolls.

JNO. C. KEMBLE.

Endorsed, "Isaac W. Bishop, pay to W. Sherman, Esq., cashier, or order. Jas. Miller, Com., J. Campbell."

May 4, 1835.

Commercial Bank, pay to my order, No. 10, eleven hundred dollars.
1,100 dolls.

JNO. C. KEMBLE.

Endorsed, "Jno. C. Kemble."

Albany, May 15, 1835.

Cashier of the Commercial Bank, pay to my order, No. 11, sixteen hundred dollars.

1,600 dolls.

JNO. C. KEMBLE.

Endorsed, "Jno. C. Kemble. Pay to T. W. Olcott, Esq., cashier, H. Curtiss, cash., E. Olcott, asst."

New-York, Sept. 7, 1835.

Cashier of Commercial Bank, pay to E. Pattison, or order, one thousand dollars.

JNO. C. KEMBLE.

Endorsed, "Elias Pattison."

SCHEDULE C.

H. BARTOW, Esq. *Cashier*,

SIR: We have this day deposited fifty thousand dollars, (and previously have deposited fifty thousand dollars,) in the Bank of America, as arranged.

Please remit us 60 days interest at 7,.....	\$1,166 66
4 brokerage \$100,000,	250 00

\$1,416 66

Your's respectfully,
JOHN WARD & CO.

New-York, Sept. 4, 1835.

SCHEDULE D.

Copy of letter to H. Bartow, referred to by Mr. Augustus James, in his testimony.

New-York, Saturday morning, 25th April, 1835.

DEAR SIR:—The Harlaem, I let slip yesterday, and enclose your account and check, one third of which, place to my credit. I sold, because it hung at that price for 3 or 4 days, and I discovered that some desperate effort would be made this day to get it *par* or *above*, and that if they did not succeed, that it would drop to 95, so I let it go, and here is our profits. I have been dabbling in Utica on my own account, and intend to make \$20,000 or lose \$5,000, having made my little arrangements to that effect, yesterday before going over to see the foot race. Of course the club lot of 560 shares is not yet sold, nor your own individual scrip.

This business is disgusting to me; it is a mere cut throat operation, and I hope to get back amongst honest men, about next Wednesday morning. In the mean time,

I am yours truly,

AUGUSTUS JAMES.

P. S.—Write me by to-morrow evening's boat, and say if you are willing to join me in the purchase of any stock; that I, upon reflection, shall conclude to embark in on Monday.

A. JAMES.

P. S.—4 P. M. I have made the cat jump on the Utica this day; but stop, don't buy a share in Albany at any thing over 120; it cannot sustain itself! indeed, don't buy any thing in Albany on my account, for there is no safety.

A. JAMES.

SCHEDULE E.

Copy of letter to H. Bartow, referred to by Mr. A. James, in his testimony.

New-York, Thursday evening, say 16th April, 1835.

DEAR SIR:—Yours of yesterday; I have received; I wrote you yesterday that I had purchased in all, 800 shares; the opinion seems universal that it possibly may go up *four* or *five* per cent, if the bill passes without amendment or restriction upon the extent of their route into the city. And the probability is just as great they think, that it will drop 10 per cent, if there is the least change in the money market. The Evening Post abuses it again, this afternoon; I hope it will pass the Senate this week; I think that I shall come here to-morrow afternoon, it is certainly the most dangerous stock in this market.

Yours sincerely,

AUGUSTUS JAMES.

EXHIBIT LETTER F.

*H. Bartow's letter dated 30th July, 1835.**Albany July 30, 1835.*

DEAR SIR :—I should have written to you in reply to your favor received a few days since, but Kemble promised me that he would do so. I have put our Long Island in the hands of Josephs, with direction to sell at 105, and I am in hopes to get it soon; in relation to all the rest of our stocks, they remain in statue quo, and we must hold on; their tendency however, now is upwards, and I am so heartily sick of the matter, that I shall let fly the moment we can do so without loss. Money continues abundant, and I think in a few weeks the prices will mend. I hope you have entirely recovered.

God bless you,

H. BARTOW.

I. W. BISHOP.

EXHIBIT G.

Admitted to be correct and in the hand-writing of the book-keeper of the Commercial Bank.

DR. L. W. Bishop in account with the Commercial Bank.				CR.	
1834.				1835.	
Dec. 16,	to cash,	\$309 31	Dec. 1,	by balance,	\$25 84
23,	"	25 00	15,	cash,	800 00
26,	"	50 00	1835.		
31,	"	75 00	Jan. 7,	"	200 00
1835.			"	"	151 20
Jan. 9,	"	232 00	9,	"	300 00
14,	"	120 00	14,	"	220 00
21,	"	205 59	19,	"	266 00
22,	"	100 00	Feb. 10,	"	125 00
30,	"	266 00	Mar. 3,	"	700 00
Feb. 20,	"	500 00	9,	"	57 90
Mar. 9,	"	35 00	28,	"	300 00
12,	"	300 00	April 10,	"	111 00
30,	"	381 12	11,	"	356 12
April 14,	"	450 00	25,	"	198 40
May 4,	"	540 00	27,	"	461 58
8,	"	500 00	28,	"	745 00
July 2,	"	97 00	May 2,	"	454 00
3,	"	250 00	11,	"	150 00
27,	"	229 25	June 18,	"	112 27
30,	"	286 00	Aug. 14,	"	1,200 00
Aug. 26,	"	500 00			
Sep. 4,	"	1,000 00			
18,	"	500 00			
Oct. 20,	"	29 04			
		<u>\$6,980 30</u>	<u>\$6,980 30</u>		

EXHIBIT H.

Memorandum of purchases and sales of stocks made by R. H. Winslow, by order and for account of John C. Kemble and Isaac Bishop.

1835.

May 27. Bought for order and for account of Isaac W. Bishop, 20 shares of the stock of the Planters' Bank of Tennessee, at 113 1-4 per cent, (amounting, including commission for buying, to \$1,270.64;) which 20 shares Isaac W. Bishop paid me for, and I transferred them to him on the 28th of May, 1835.

1835.

May 25th and 26th. Bought for order and for account of Isaac W. Bishop and John C. Kemble, 1,440 shares of the stock of the Long-Island rail-road company, as follows: 40 shares at 102 3-4 per cent; 305 shares at 103; 440 shares at 104 1-2, and 655 shares at 105 per cent: (these shares are \$50 each, on which, at the time of purchase, \$5 per share was paid in,) amounting to \$10,527.85, including my commission for purchasing; all of which I transferred to J. C. Kemble on the 29th of May, 1835, he having paid me for them on that day.

1835.

May 27th. Bought for order and account of John C. Kemble, 200 shares of the stock of the Utica and Schenectady rail-road company at 128 1-2 per cent; these were bought deliverable at the opening of the transfer books, (which were then closed;) and on the 2d day of June I received them, and on that day I transferred 100 shares of them to John C. Kemble, and the remaining 100 shares to J. M. Henriques, broker, to whom, on the 1st of June, I had sold them at 130 1-4 per cent, for order and account of John C. Kemble. Mr. Kemble paid me for these 200 shares, and I paid him for the 100 shares sold J. M. Henriques, as above; or rather, Mr. Kemble paid me for the balance due for cost of these 200 shares, I charging him with the cost of 200 shares, and deducting therefrom the proceeds of the 100 shares sold Henriques, as above; the amount of this balance so paid me by Mr. Kemble was \$4,271.81, which included my commission for the purchase and sale.

1835.

May 27th. Sold for order and account of John C. Kemble, 40 shares of the new, or scrip stock, of the New-York and Harlaem R. R. Co. (on which, at the time, \$10 per share was paid in,) at 112 1-4 per cent, amounting to (deducting my commission for selling,) \$639.39. Also sold for order, and on account of the same, on the 28th May, 1835, 5 shares of the same stock at 112 1-4, amounting (deducting my commission,) to \$80.41. The proceeds of these two parcels of stock I paid over to J. C. Kemble on the days on which they were sold, respectively, he having at the time delivered to me the scrip, with blank power of attorney to transfer the same, which I handed over to the purchasers, viz: both parcels to Messrs. Le Roy & Co. brokers.

Mem.—These are the only transactions I have ever had with above named gentlemen. The only persons I knew or heard of in the above transactions, were John C. Kemble and Isaac W. Bishop. I acted sim-

ply for a commission and as a broker, and the sales and purchases were all made for cash, with *bona fide* deliveries of stock as above named. The payments were made to me with the checks of John C. Kemble, on some one of the New-York city banks, or in current bank notes. I have no memoranda in my possession to shew upon what banks these checks were drawn, but according to the best of my recollection they were upon the Phenix or Commercial Bank of *the city of New-York*.

I received *none* of these payments in checks or drafts upon any bank or person out of the city of New-York.

R. H. WINSLOW.

New-York, March 17th, 1836.

EXHIBIT I.

Statement of Stocks purchased by order and for account of Messrs. Bishop, Kemble and Bartow.

1835.

May 16,	100 shs.	Morris canal, of Caneman & Whitehouse, buyers,	30	
			dys at 100 & int.	
"	100 "	Harlaem, of Wm. Bowne, buyer,	10 dys at 109	
25,	100 "	Long-Island of Wm. Haxton,	June 1st, 103	
"	100 "	" Le Roy & Co.	" 105 $\frac{1}{4}$	
"	75 "	" Wm. I. Robinson,	6th, 105	
"	500 "	" D. & Alstyne,	" 105	
"	100 "	Utica R. Rd., I. T. Talman,	2d, 129	
"	100 "	" Geo. Henriques,	" 129	
"	140 "	Long-Island, Caneman,	6th, 105	

Recapitulation.

Morris canal.—100 shares sold, on which a loss was incurred.

Harlaem.—100 shares sold, and paid profit to Jno. C. Kemble.

Long-Island.—915 shares, 200 transferred to Jno. C. Kemble, 29th May; 715 transferred to Hy. Bartow, on 17th July.

Utica R. Road.—200 shares, paid for and transferred to Jno. C. Kemble, on 1st June. \$8,873.50.

Messrs. Bartow, Bishop and Kemble,

In account with Henry Lynch.

1835.

DR.

May 26th,	For 100 Harlaem, at 109	\$5,450 00	
	10 days interest from 16th	9 08	
	Comm'n buying, $\frac{1}{4}$ pr. c..	13 65	
			\$5,472 73

CR.

By sales, 100 shs. at 112,	\$5,600 00	
Commission $\frac{1}{4}$ pr. c. off.,	14 00	
		5,586 00

Nett profit made and paid to Jno. C. Kemble, Esq. \$113 29

Messrs. Bishop, Kemble and Bartow,
in account with Henry Lynch.

1835.

*DR.*May 28. To cash pd. 100 sh. Long-Island, a 105 $\frac{1}{2}$, \$762 50

" 100 do 103, 650 00

1,412 50Commission for buying $\frac{1}{2}$,... \$26 03

Less, this amount on 100 sh.

having exceeded your limits

 $\frac{1}{2}$ per cent, 12 53

13 50

\$1,426 00

1835.

CR.

May 29. By Jno. C. Kemble's check for the amount,..... 1,426 00

DR.

June 6th. To cash paid for 75 shares Long-Island, at

105, \$562 50

do do 500 do 3,750 00

do do 140 do 1,050 00

11 days' interest,..... 8 79

Commission $\frac{1}{2}$ per buying,..... 93 84

\$5,465 13*CR.*

June 9th. By cash received from I. W. Bishop,.. \$715 00

10th. do do H'y. Bartow,.. 4,750 13

5,465 13*DR.*

June 18th. To cash paid for 100 shares Morris

canal, \$10,00 00

30 day's interest,.... 50 00

Com. $\frac{1}{2}$ for buying,.. 25 12

10,075 12*CR.*

June 18th. By cash received, from Jno. C. Kem-

ble, his check on Commercial B'k,

New-York, 3,000 00

Balance due H. Lynch this day,

against 100 shares Morris canal,

sold on 3d December, 1835, to pay

the amount, \$7,075 12

The foregoing and annexed account is a true copy of the whole of
my account of stocks, bought or sold per account of Messrs. Bishop, Kem-
ble and Bartow, by me.

HENRY LYNCH.

March 22, 1836.

[Senate No. 95.]

Copy of Memorandum in my Book.

July 17. Received from Henry Bartow, John C. Kemble's power of attorney for 1,650 shares Long-Island rail-road, which, together with 715 shares, I transferred to Henry Bartow this day. HENRY LYNCH.
 March 22, 1836.

EXHIBIT J.

COMMERCIAL BANK, {
 Albany, June 8, 1835. }

DEAR SIR,—From an inattentive perusal of your favor of the 6th instant, Mr. Bishop (who pleads indisposition as his apology) sent you yesterday \$715, instead of \$5,465.13. This comes of doing business on the sabbath. I now forward you \$3,750.13, being the balance, in a draft on the Bank of America; and have only to add my regret that misapprehension may have caused you inconvenience in the matter. I hope, as our mutual friend, Webster, informs me that you are now a member of the board of B's (blackguards) to send you some business; and, to begin, I authorize you to sell 200 shares Utica and Schenectady for me so soon as it brings 135. The scrip is in the hands of J. Delafield, Esq. Please hold the Long-Island scrip in my name.

I am, sir, with great respect, your most ob't serv't,

H. BARTOW.

HENRY LYNCH, Esq.

EXHIBIT K.

Albany, June 8, 1835.

HENRY LYNCH, Esq.

DEAR SIR,—Enclosed I send you a check for \$715, as requested. I also send you twenty shares of the Planters' Bank of Tennessee, which you may sell on my account. I think it sold the day before yesterday at 116. I have been very sick, or I should have been at New-York some days ago: I hope to be down in two or three days. When Utica gets to 135, sell my 100 shares.

Truly yours,
 ISAAC W. BISHOP.

P. S. Acknowledge the receipt of this.

EXHIBIT L.

Article from the Herald, September 18, 1835.

The Harlaem rail-road company.—It was towards the month of April, and the beginning of May, when the birds began to sing, that two gentlemen closely connected with Commercial Bank of Albany, took it into their heads to perform some Adrien experiment upon any of the rail-road companies they could lay their hands upon in the city of New-

York- "What is the reason," said the one to the other, "that we can not manœuvre in Wall-street as well as the best of them? I am cashier of the Commercial; it has a capital of \$300,000, a circulation of \$125,102, and specie in the vault, \$18,584; we can, if we choose, corner some of these Wall-street brokers, and it ought to be tried for the honor of Albany, and to balance the losses on the Utica and Schenectady."

Accordingly, arrangements were immediately made to set the machinery in motion; after a good reconnoissance, the Harlaem rail-road was selected as being a concern in which many in New-York were interested in keeping up. Through various agents, a large amount of the stock was bought up, not all, because the confederacy discovered that after they had got hold of 8,000 shares, they could not work the machine till they purchased 2,000 more. All the funds collected in Albany had been exhausted. The Commercial Bank had performed its part, and more money was wanted. What was to be done? An expedient was soon found—a loan was negotiated with a large private banking-house in Wall-street. They were made the depository for the transaction of the business, and a commission, as is usual in such cases, allowed.

The screws were now tightened, and the Harlaem rail-road stock was bought up at the board and in the street, to three times the amount of the original quantity of 10,000 shares. This stock was bought up too, by the very persons in Albany who held the whole, or nearly the whole of the original bona fide stock. When these contracts became due, no stock could be had, because the holders of the stock, and the buyers, were one and the same persons. They accordingly put up their stock to 119, 120, 126, 30, 40, 50, 60, 80, 90, 95, at which it now stands. For ten days there has been an extraordinary sensation in Wall-street. The subject is before a committee of the board, but every body believes that no report will ever be made.

The confederates have made immense sums of money, and the sellers have lost equally immense. What amount of the "spoils" has been shared by the Commercial Bank of Albany, which is the back-bone of the confederacy, through its cashier, we have no means of knowing; but if they do get a share, that institution ought to divide 50 or 100 per cent. as the next half-yearly dividend.

This operation of cornering in the Harlaem stock has been so extravagant, and has been carried to such an extreme length, that we should not be surprised to see it produce a revolution and reform in the board of brokers. We hope so. More of this another day.

EXHIBIT M.

Testified to by Mr. Hastings, to be a copy of a letter sent to the Bank, at or about its date.

(COPY.)

ALBANY, 1836, JANUARY 21.

To the President and Directors of the Commercial Bank of Albany.

GENTLEMEN—I am induced at this time to address you in relation to certain paragraphs which appeared in the Albany Evening Journal

and other newspapers, in the months of November and December last, touching the absconding of H. Bartow, late cashier of the Commercial Bank. In those paragraphs it was asserted, or at least distinctly intimated, that some members of the Senate or Court of Errors were connected with Mr. Bartow in his transactions or peculations. These paragraphs were calculated to engender the impression that such members of the Senate or Court of Errors were participators with Bartow in his frauds or peculations. Common rumor named the individuals who were supposed to be alluded to in those paragraphs; and I am informed that, among others, my name has been designated as one of them.

I owe to my constituents, to the members of the Legislature with whom I am associated, and to myself, the duty of divesting those invidious and rumors of the personal application, so far as I am concerned, which has been made. The performance of this duty constitutes my object in now addressing you.

I solemnly deny that I ever had any dealings or transactions with Mr. Bartow, directly or indirectly, in any manner involving my official character, or derogatory to the character of a man of integrity; and in no transaction or business of mine with Mr. Bartow had I any knowledge, suspicion or belief, or any reason to believe or suspect, that Mr. Bartow was in any way or manner using the funds of the bank, or any person except his own.

I therefore respectfully request an answer to the following interrogatories:

1st. Did you, directly or indirectly, authorize the publications which appeared in the "Evening Journal," charging or intimating that certain members of the Senate or Court of Errors were connected with Mr. Bartow in his fraudulent transactions?

2d. If your answer be in the affirmative, to whom were those allusions of a participation with Mr. Bartow's fraud applicable?

3d. Have you, at any time, authorized any person to assert that I had any participation in, or knowledge of, Mr. Bartow's frauds or peculations?

4th. Have you any evidence or knowledge of any participation or connexion of mine with Mr. Bartow, in his frauds or peculations? If yea, state particularly and specifically.

5th. Have you any evidence or knowledge of any transaction betwixt Mr. Bartow and myself involving my official character? If yea, state particularly and specifically.

6th. Have you any evidence or knowledge that I ever had any connected interest or personal dealings with Mr. Bartow, during the session of the Legislature of this State? If yea, state particularly and specifically.

7th. Does it appear that Mr. Bartow illegally or improperly used the money or funds of your bank *anterior* to the first of August last?

8th. Have you any evidence that I had any monied transactions with Mr. Bartow *subsequent* to the first of August last?

I am, very respectfully,

Your ob'dt serv't,

JNO. C. KEMBLE.

EXHIBIT N.

Statement presented to the Honorable the Committee of the Senate of New-York, on the 23d March, 1836.

COMMERCIAL BANK,
Albany, 23d March, 1836. }

The following is a statement of the losses sustained, and liabilities incurred, by the Commercial Bank of Albany, in consequence of the fraudulent transactions of Henry Bartow, late cashier thereof:

Draft No. 1,579, drawn by Henry Bartow, cashier, on the Bank of America, New-York, dated the 13th August, 1835, in favor of R. L. Nevins & Co., was endorsed by them, and paid at the Bank of America on that day, for which said R. L. Nevins & Co. gave their check on the Merchants' Bank for the same amount; which check on the Merchants' Bank was endorsed and collected by Henry Lynch: this draft, No. 1,579, was credited to the Bank of America on the books of the Commercial Bank, and charged to account of R. L. Nevins & Co.; but of which debit said R. L. Nevins & Co. deny the validity; stating that they had no other knowledge or participation in the transaction than that they endorsed the draft, received payment thereof, and gave their check on the Merchants' Bank in exchange therefor, in favor of Henry Lynch, \$20,000 00

Draft No. 1,605, drawn by H. Bartow, cashier, on the Bank of America, dated 21st August, 1835, in favor of R. L. Nevins & Co., 40,000 00
was placed in the hands of said R. L. Nevins & Co. by Matthew Henry Webster, on the 22d August 1835, was endorsed by R. L. Nevins & Co., and paid at the Bank of America, and the proceeds placed to credit of said Matthew Henry Webster on the books of said R. L. Nevins & Co., and drawn out by the said Matthew Henry Webster, by his checks, in the following manner, viz:

25th August, 1835, M. H. Webster's check or order, in favor of H. Lynch, endorsed by said H. Lynch for

		\$15,000
26th August,	do	do
		10,000
26th do	do in favor of J. L. & S. Joseph & Co. and endorsed by them,	15,000

\$40,000

Of this draft, No. 1,605, for \$40,000, on the Bank of America, no entry was made on the books of the Commercial Bank, by said Henry Bartow, late cashier.

On the 29th September, 1835, H. Bartow, late cashier, charged in his own handwriting, to the debit of the Bank of America,

53,644 93

which sum was composed of checks drawn on the Commercial Bank by Isaac W. Bishop, John C. Kemble and Henry Bartow, all of which had been paid out of the funds of the said bank, by direction of said H. Bartow, then cashier, and never charged to any account, but kept by themselves in the drawer or vault, and counted as cash, also by his directions; and which, at the time of his absconding, he feloniously abstracted: and of which sum, the following checks have been traced and identified, as has been proved by the testimony of A. H. Lovett, the teller of the bank, viz:

On the 30th May, 1835, John C. Kemble's check on the Commercial Bank, was received in the exchange from the Mechanics' and Farmers' Bank, for . . . \$6,500 00
 On the same day, Isaac W. Bishop's check on the Commercial Bank was received from the Albany City Bank for . . . 7,000 00
 On the 3d June, 1835, John C. Kemble's check on the Commercial Bank was received from the Albany City Bank, for . . . 13,144 93

\$26,644 93

Isaac W. Bishop's check for \$7,000, and J. C. Kemble's check for \$13,144.93 were received by the Albany City Bank from the Phenix Bank in New-York, and J. C. Kemble's check for \$6,500 was received by the Mechanics' and Farmers' Bank, from the Commercial Bank, New-York.

The remaining \$27,000, composing the above item of \$53,644.93, Mr. Lovett believes to have consisted of one other check drawn by Isaac W. Bishop, and certain checks drawn by H. Bartow.

A check on the Phenix Bank, New-York, in favor of H. Bartow, cashier, by Watts Sherman, cashier of the Albany City Bank, for . . . was charged to account of the Bank of America on the books of the Commercial Bank, on the 30th September, 1835; which check or draft was feloniously abstracted from a letter addressed to D. Thompson, cashier of the Bank of America, by H. Bartow, endorsed by him as cashier, paid at bank to R. L. Nevins & Co., for which said R. L. Nevins & Co. gave said Bartow their check on the Merchants' Bank in exchange.

12,523 04

John C. Kemble's account stands overdrawn on the books of the Commercial Bank this day, . . .

4,980 64

John W. Edmonds owes on balance of a check of \$5,000, drawn on the Commercial Bank, dated 5th May, 1835, which was received in the exchange from Mechanics' and Farmers' Bank, and by that bank from the Leather Manufacturers' Bank in New-York, early in May last, and paid with the funds of the Commercial Bank, by direction of H. Bartow, then cashier, and not charg-

ed to account, but held and accounted as cash, also by his directions,	2,400 00
A note drawn by H. Bartow, and endorsed by Erastus Corning and James Porter, for.....	10,000 00
dated 6th June, 1835, at four months, discounted at the Bank of America, was charged by said Bank of America, at maturity, to the account of the Commercial Bank, by direction of H. Bartow, late cashier, and which charge has been admitted by said Commercial Bank, under advice of counsel.	

\$143,548 61

The above sum of \$126,167.97 was charged to suspense account on the 16th January, 1836, as being of doubtful recovery; and the remaining \$17,380.64 have been arranged for eventual liquidation, by legal enforcement, and otherwise.

The balance to the debit of suspense account this day is \$122,014.99.

All which is respectfully submitted to the honorable the committee of the Senate of the State of New-York.

J. TAYLOR, *Cashier.*

EXHIBIT O.

Statement of J. C. Kemble's account with Commercial Bank, New-York.

1835.	DR.	
August 29. To draft,.....	\$25 00	
Sept. 8. "	500 00	
" 18. "	150 00	
Oct. 12, "	700 00	
" 21, "	203 17	
" " "	383 02	
	<hr/>	
	\$1,961 19	
	<hr/>	

1835.	CR.	
August 15. By cash,.....	\$100 00	
Sept. 7. "	723 00	
" 12. Loan,	500 00	
" 14. Discount,	441 76	
Oct. 12. "	196 43	
	<hr/>	
	\$1,961 19	
	<hr/>	

EXHIBIT P.

Letter to Hon. John C. Kemble, from George D. Strong.

OFFICE OF COMMERCIAL BANK, }
New-York, Nov. 19, 1835. }

DEAR SIR,—Your favor is before me, and in reply I cheerfully place the subject of your draft on us for \$1,000, in its true aspect. Early in September last, you applied to me for a loan, which I stated was inconvenient at the moment, but that we should be so situated as to let you have it in three or four days. You then solicited permission to draw on our bank, through the Albany Banks, for the amount, and I consented, as the draft could not reach us until it could be convenient for us to make the loan.

This fact I communicated to the first teller, as Mr. Curtiss, the cashier, was not in; and this is the reason why he, (Mr. C.) was not acquainted with the above transaction.

I enclose a statement exhibiting your transactions with us, and you will perceive that the loan for \$500 was on the 12th, and the discount on the 14th September.

Mr. Curtiss would have written you also, but as he could only have spoken of what he knew of the transaction, through me, he thought it not important. He, however, is certain Mr. Gilchrist is mistaken, in supposing he said that the draft was not good at any time *since* it was drawn. Not knowing our understanding, he said that it was not good at the time it was drawn, nor at the time it was presented.

It is almost needless for me to say, that all your transactions with this institution, since you opened an account with us, have been of the most correct and honorable character, and that Mr. Curtiss and myself, both regret that they could have been otherwise considered.

Very respectfully, your ob't serv't,

GEORGE D. STRONG, *President.*

*Letter from Henry Seymour, ordered to be printed by the Senate,
April 26, 1836.*

Albany, April 25, 1836.

DEAR SIR,—Mr. Kemble, in one of his letters to Mr. Bartow, now in your possession, asserts that Mr. Delafield and myself had been engaged in running up the stocks of the Rensselaer and Saratoga and the Washington and Saratoga rail-road companies. Apprehensive that some unfavorable inference might be drawn from this allegation, were it to pass unnoticed and uncontradicted, I beg leave to say, that I have never owned a share of stock in either of the above mentioned companies, nor have I at any time, either individually or in connexion with any person or persons, attempted, by stock-jobbing operations, to raise or depress the price of the aforesaid stock, or the stock of any other company.

You will do me a favor by attaching this letter to the documents which will accompany your report to the Senate.

With great respect, I am, your ob't serv't,

HENRY SEYMOUR.

HON. SAMUEL YOUNG,

*Chairman of the Committee of Investigation,
touching the conduct of certain Senators.*

S. YOUNG, *Ch'n.*

JOHN J. HILL, *Sec.*

STATE OF NEW-YORK.

No. 96.

IN SENATE,

April 27, 1836.

REPORT

Of the select committee on a communication from
Lewis Benedict of the 14th March.

"STATE OF NEW-YORK, }
IN SENATE, March 15, 1836. }

Resolved, That the committee of investigation into the charges of official misconduct of certain members of the Senate in relation to the abstraction of the funds of the Commercial Bank of Albany, be authorized to inquire into the truth or falsity of certain allegations submitted to the said committee in writing, by Lewis Benedict, Esq., with power to send for persons and papers.

"By order.

"JOHN F. BACON, *Clk.*"

Mr. Young, from the committee to which was referred the communication of Lewis Benedict of the 14th of March, implicating the official conduct of Isaac W. Bishop, a member of the Senate, submitted the testimony which was adduced, together with the following

REPORT:

Only two witnesses were sworn, and the testimony of each corroborates that of the other, except as to sums and dates, respecting which the memory of man is often found to be inexact.

John I. Mumford testifies, that on meeting Mr. Bishop near the capitol, he thinks not far from the middle of April, 1835, Mr. Bishop asked him whether the nomination of Henry Hone as auc-
[Senate, No. 96.]

A

ioneer, had gone into the Senate. Witness told him he understood it was to go in that morning. On which Mr. Bishop in substance remarked, that the nomination should not be confirmed unless the candidate paid him \$100 which he owed him. The witness further swears, that he almost immediately afterwards communicated the fact of Mr. Bishop's opposition to Mr. Livingston of the Senate.

Charles L. Livingston of the Senate, testifies that on being apprised of Mr. Bishop's opposition to the nomination of Henry Hone, he called on Mr. Bishop to ascertain the cause; and that in reply to his inquiry, Mr. Bishop observed, how can I do otherwise than oppose him as he does not pay his debts of honor? Mr. Livingston then called on Hone, who, on being apprised of Mr. Bishop's opposition, admitted that he owed him about \$400, and said he intended to pay him. Mr. Livingston testifies that he knows the money, he thinks about \$400, was paid to Mr. Bishop; and that the money was lent by Mr. Emmet of New York. Mr. Livingston further testifies, that the money was paid before he heard the nomination of Henry Hone announced, and that the nomination was forthwith confirmed without any opposition from any quarter. It was in the Senate chamber, in the morning, when the Senate were about to proceed to business, or had commenced business, that Mr. Mumford communicated to him Mr. Bishop's opposition to Mr. Hone, and he thinks all the circumstances detailed by him took place on that day. He believes it to have been on the 1st day of May. Mr. Livingston further testifies, that Mr. Bishop has within a few days past admitted that it was a gambling debt which was claimed and received by him as above stated.

The above are in substance the facts which have been disclosed by the testimony, and upon these facts two very important questions arise. 1st, Did Mr. Bishop exercise the influence of his office as Senator to enforce the payment of a gambling debt which is not collectable by law? And if he did, what is the moral and official character of such a transaction?

Mr. Bishop's remark to Mr. Livingston, How can I do otherwise than oppose him, as he does not pay his debts of honor? might be understood to be general, and to exclude all personal considerations. Debts of honor also might mean debts for money borrowed when no witnesses were present, nor written evidence given, and the payment of which would in such cases depend on the

honor of the debtor. Such would probably be a reasonable inference from the remark of Mr. Bishop to Mr. Livingston, and if this was the only testimony implicating Mr. Bishop the committee would not hesitate to acquit him of any improper motive. But the testimony of Mr. Mumford gives to Mr. Bishop's objections a more definite character. His declaration to the witness, that Hone's nomination should not be confirmed unless he (Hone) paid him \$100 which he owed him, can hardly be understood in any other light than as a direct official threat, which was designed to enforce the payment of a private claim. And such was the effect which this threat produced. The money to the amount of about \$400 was forthwith borrowed, and was paid to Mr. Bishop before the nomination was announced. Mr. Bishop's receipt of this money and his tacit abandonment thereafter of all opposition to the nomination, would seem to establish, beyond all reasonable doubt, the exact character of the transaction. That a Senator should exercise his official influence to extort the payment of a gambling debt, must be regarded as extremely censurable. And the committee believe that the conduct of Mr. Bishop deserves the condemnation of the Senate.

All which is respectfully submitted.

DOCUMENTS.

Albany, March 14, 1836.

HON. SAMUEL YOUNG,

Chairman of the Committee of Investigation:

DEAR SIR,—Some time in the spring of 1835, I was informed that the Hon. I. W. Bishop had a debt against a gentleman, who was an applicant for the appointment of auctioneer, and who had been nominated by the Governor; that the Hon. I. W. Bishop told the applicant, or his friends, that he should not have the office, or that he would oppose his appointment, unless he paid him, the Hon. I. W. Bishop, the \$100 he owed him: Not having the money with him, he applied to a friend, who lent him the money to pay the Hon. I. W. Bishop; and then he, the Hon. I. W. Bishop, withdrew his opposition to the appointment, and it was confirmed.

I have lately been informed, by a person now in town, that the circumstances I have related above, were substantially true; and that the Hon. I. W. Bishop made the communication to him, and that it was known to the Hon. Charles L. Livingston. Since I presented you the above statement, I have been informed that the sum was \$400, and not one hundred dollars, as before stated. I also understand that the debt was contracted at the gambling table, and while the applicant was waiting his appointment.

Respectfully yours,

LEWIS BENEDICT.

1836, MARCH 15, }
Mansion-House, 7 o'clock, P. M. }

In the matter of an inquiry into the official conduct of Isaac W. Bishop, a Senator of the State of New-York. }

John I. Mumford being called as a witness, and sworn, deposes and says, as follows: Some time in the month of April, 1835, on my way from the capitol down State-street, within the capitol park, I met Mr. Isaac W. Bishop, and he asked me if a certain individual, naming him, was then in the city; to which I answered that he was, or I believed he was. He then asked me if the nomination of that individual as auctioneer, had gone into the Senate. I

told him I understood it was to go in that morning. On which he, in substance, remarked, that the nomination of that individual should not be confirmed, unless he, the candidate, paid him \$100 which he owed him. This conversation I related almost immediately afterwards to the Hon. Mr. Livingston, of the Senate, whom I knew to be a personal friend of the applicant. Mr. Bishop never told me that it was a gambling debt. The individual alluded to, is Henry Hone, of the city of New-York; and to the best of my recollection, I did not communicate this information to any other Senator than Mr. Livingston.

Witness being cross-examined by the counsel for Mr. Bishop, says: I believe the nomination was made that day; I think it could not have been far from the middle of April last.

Q. by Counsel. Have you had any personal difficulty with Mr. Bishop?

A. I have had a correspondence with Mr. Bishop, which I disliked very much, and about which I have spoken to him and others. I am not aware that I ever told any one that I would be revenged of Mr. Bishop. I don't know that I have ever used language of that import. I think it very probable that I have used the language that he, Mr. Bishop, was a damned rascal, but never without explaining why. I am confident that I communicated the conversation I had with Mr. Bishop, to Mr. Hone, within a few hours after it took place. I have told it to several persons since, whose names I cannot now recollect. I have told it within a week to Mr. Benedict, and within three days I have told it to Mr. Van Schaick, but never before. I think I told it to Mr. Benedict on last Thursday, at Congress-Hall. I did not tell the conversation which passed between me and Mr. Bishop to Mr. Livingston, for the purpose of producing an investigation, but as an act of magnanimity to Mr. Hone. Mr. Bishop has not turned me out of his room in his boarding-house in this city, within the last two years; nor has he, at any time, to my recollection.

Q. by Mr. Young.

A. I noticed the appointment of Mr. Hone in the newspapers, some days after the conversation with Mr. Bishop.

I think I communicated the conversation with Mr. Bishop, to Mr. Livingston, at his room in the Eagle Tavern. I have, on reflection, an indistinct recollection that Mr. Bishop told me, some years ago, to leave his room in the City Hotel, in consequence, as I think, of our conversation about the correspondence between us. My impression is, that Mr. Edmonds was present at this time.

JOHN I. MUMFORD.

Charles L. Livingston, being sworn says, in the spring of 1835 I called on Mr. Bishop, having previously understood that he would oppose the confirmation of Henry Hone's nomination as an auctioneer for the city of New-York, to ascertain from Mr. Bishop the cause of his opposition. In reply to my inquiry Mr. Bishop observed, how can I do otherwise than oppose him, as he does not pay his debts of honor? I afterwards spoke to Mr. Hone

and informed him of what Mr. Bishop had said. Mr. Hone admitted that he owed him, Bishop, money: I think he said something like \$400; and that he intended to pay him. I afterwards understood that the money was borrowed from a friend, and I know that a sum of money was paid to Mr. Bishop. I was informed by Mr. Mumford that Mr. Hone had been, or would be, nominated that day. The money was paid before I heard the nomination announced in executive business; and I think it was paid on the same day that I heard of Mr. Bishop's objection. I believe that the nomination was made on the 1st day of May, 1835, and confirmed forthwith. If there had been any opposition to this nomination it could not have been confirmed on the same day it was made. Witness understands the rule to be that unanimous consent is required to confirm a nomination on the same day it is announced.

I think I was in the Senate chamber when Mr. Mumford first communicated to me Mr. Bishop's opposition to Mr. Hone's nomination. He afterwards spoke to me on the subject at my room in the Eagle Tavern. The Senate was in session, or about going into session, when Mr. Mumford made this communication to me. I can not swear that the nomination of Mr. Hone was made by the Governor on the same day that Mr. Mumford made the communication to me. I can not say what Senators were present when the nomination of Mr. Hone was confirmed. I have no recollection that Mr. Bishop was present when the Senate confirmed Mr. Hone's nomination. Mr. Hone had been previously nominated in the same session, for the office of auctioneer, and confirmed by the Senate without a division, as appears upon the executive minutes. Mr. Hone had omitted to take up his commission within the time required by law, which created the necessity of his re-nomination. I did not understand from Mr. Bishop that he was using his official influence to coerce the payment of this money from Mr. Hone. Mr. Bishop, in his conversation with me before alluded to, said nothing about any individual transactions between himself and Mr. Hone.

CHAS. L. LIVINGSTON.

FRIDAY, MARCH 25, 1836.

The committee met, &c.

Investigation of Isaac W. Bishop.

Mr. Van Schaick proposed the following interrogatory to Mr. Livingston:

Q. Who furnished the money to Mr. Hone, in discharge of Mr. Bishop's claim upon him?

Ans. The money was lent to Mr. Hone by Mr. Emmett of New-York.

Q. By Col. Young. Did you, at the time, know from Mr. Bishop that it was a gambling debt which he claimed from Mr. Hone?

Ans. Of my own knowledge I did not know that it was a gambling debt; but Mr. Bishop has, within a few days past, acknowledged that it was a gambling debt. I understood the sum, at the time, to be \$400 which was paid to Mr. Bishop.

CHAS. L. LIVINGSTON.

No. 97.

IN SENATE,

April 30, 1836.

REPORT

Of the committee on the judiciary, on the petition of the moral and equitable association of the city of New-York.

Mr. Edwards, from the committee on the judiciary, to whom was referred the petition of the moral and equitable association of the city of New-York,

REPORTED:

That the petitioners ask for the passage of a law to prevent the removal of the remains of deceased persons, after burial, except in cases where the deceased may have expressed a desire, before death, that his remains, after death and burial, should be removed to some other place, and be re-interred with those of his friends; and also except where the surviving relatives of the deceased may, from time to time, desire that the remains of their deceased friends should be disinterred and removed to some other place for interment.

The committee believe that the prayer of the petitioners is in accordance with the best feelings of human nature; that it should meet with the general response of all who now survive those who are slumbering in their tombs, and that nothing but the most imperious necessity should be an inducement to any one to disturb the sepulchres of the dead. But they are inclined to believe that it would be more desirable that this subject should be controlled by a sense of human feeling and moral duty, than by acts of legisla-

[Senate, No. 97.]

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tion. Besides in some cases it may become absolutely necessary, in a city as rapidly improving as New-York now is, that the remains of deceased persons should, in some cases, be removed; and as the precise cases can not be anticipated, where such removals should be permitted and where prohibited, the committee are of the opinion that it would be indiscreet to make a general provision by law relative to the subject referred to in the petition. They can not, however, forbear to express their opinion decidedly against all such removals, except where it has been requested by the deceased in his life time, or by his surviving friends, unless in cases of imperious necessity. And should these removals be frequent and unreasonable, for the purpose of promoting objects of speculation, the subject may hereafter require legislation; but they can not satisfy themselves that it is now their duty to recommend it. They therefore report against the prayer of the petitioners

STATE OF NEW-YORK.

No. 98.

IN SENATE,

May 3, 1836.

REPORT

Of the committee on the judiciary, on the engrossed bill from the Assembly for the relief of David Fitzgerald.

Mr. Edwards, from the committee on the judiciary, to whom was referred the engrossed bill from the Assembly for the relief of David Fitzgerald,

REPORTED:

That William Young recovered a judgment in the supreme court against the petitioner for \$850.87, in January, 1835, in an action on the case, for damages he had sustained in consequence of obstructions placed in Mud creek by the petitioner and his laborers. It appears that the petitioner had entered into a contract with Mr. Seymour, in the year 1829, then one of the acting Canal Commissioners, for repairing the aqueduct belonging to the Erie canal over the said creek; and that the damages were occasioned by the petitioner and his laborers, while performing the work under the said contract. As the petitioner, therefore, was repairing the public works under a contract from one of the Canal Commissioners he was not personally liable for damages, unless they were occasioned by some negligence or improper conduct, either in performing the work or in conducting the defence to the action brought against him.

The committee have examined the pleadings, on the part of the petitioner, in the case made on which the supreme court refused

[Senate, No. 98.]

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to set aside the verdict recovered against the petitioner, and also the testimony produced by the parties, on the trial of the cause, as well as the points raised by the petitioner's counsel and the charge of the judge before whom the cause was tried; but have been unable to discover any defect in the pleadings on the part of the petitioner, or any improper management or neglect on the part of the counsel who conducted his defence: nor can they come to the conclusion, from the examination they have given the case, that there was any error in the charge of the judge before whom the cause was tried; he seems to have charged the jury correctly as to the law by which the rights of the parties were to be controlled. Indeed it seems, from an examination of the case, to be impossible to account for the verdict rendered in the cause, on any other ground than that the jury inferred, from the testimony, that the petitioner either improperly managed the work, and thereby occasioned unnecessary obstructions to the creek, or was negligent in removing the stone and rubbish which had fallen into the creek during the progress of the work.

There were eighteen witnesses sworn on the part of the plaintiff, most of whom testified relative to the manner in which the petitioner and his laborers had managed the work, and the nature and effect of the obstructions the progress of the work had occasioned. On the part of the petitioner, the contract under which the work was performed, Mr. Seymour and three other witnesses were produced to rebut the plaintiff's testimony. In order to a correct understanding of the testimony produced by the parties on the trial of the cause the committee would refer the Senate to the case accompany the papers of the petitioner, in which it is minutely detailed. From the best examination the committee have been enabled to give that testimony they can not believe the jury could have inferred that the work was improperly executed. But it is possible they might have inferred that the petitioner was negligent in not removing the stone and rubbish which had fallen into the creek as soon as he ought to have done. There was nothing in his contract, however, that required him to remove this rubbish, unless it can be implied from the nature of the undertaking. Yet judge Nelson, who delivered the opinion of the supreme court on the case made on the part of the petitioner, seems to have supposed that the jury inferred there was negligence on the part of the petitioner, and refused to set aside the verdict and grant a new trial. For in delivering the opinion of the court he says,

"No question of law is involved in this case; the charge of the judge was correct, and sufficiently favorable to the defendant. The plaintiff undoubtedly showed a good ground of recovery, and the damages disclosed to the jury, considerable. Negligence was shown on the part of the defendant, in not clearing out the stream of the rubbish and materials thrown in by him."

But had the jury, on the same testimony, found a verdict in favor of the petitioner the committee are of the opinion that the supreme court would not have set it aside as against the weight of evidence.

In addition to the case to which the committee have referred, the petitioner has procured the certificate of Mr. Seymour, the acting Canal Commissioner under whose direction the repairs were made. By this certificate it appears that the petitioner, in the year 1829, entered into a contract with him to repair the aqueduct over the said creek: that the petitioner, in the spring of 1830, commenced the work under the contract and finished it in the fall of the same season: that it became necessary to pull down the aqueduct, and in doing so some part of the wall necessarily fell into the creek: that the petitioner at different times removed the stone which fell into the stream, and as was supposed, and as he believes, left the stream, so far as the stone and rubbish which fell in and logs and flood effected it, less obstructed than it was when he commenced the work: that in the performance of the contract, it became necessary to put down two stone braces in the bed of the creek, and that this of course occasioned an obstruction of the stream and set back the water. It also appears by this certificate that the clearing out of the stream of the stone and rubbish which necessarily fell in, formed no part of the consideration, and that nothing was said about it in the contract. It further appears, by this certificate, that Mr. Seymour attended the trial, as a witness, and heard the evidence; and that from the evidence, as well as from his own observation, he was satisfied that the petitioner acted throughout in good faith, and ought to be indemnified by the State against the judgment, together with his necessary costs incurred in defending the suit.

Upon a full examination and consideration of all the facts and circumstances which have come to the knowledge of the committee, they have come to the conclusion that the bill referred to them ought, in justice to the petitioner, to become a law.

STATE OF NEW-YORK.

No. 100.

IN SENATE,

May 9, 1836.

FIFTEENTH ANNUAL REPORT

Of the surgeons of the New-York Eye Infirmary, for
the year 1835.

To the Honorable the Legislature of the State of New-York.

The surgeons respectfully report:

That during the year 1835, more than one thousand patients, laboring under various diseases of the eye and ear, applied to the Institution for relief.

A large number of students of medicine attended the practice of the Infirmary. During the 1835, twelve hundred and forty-three patients were treated at the Infirmary. There remained under treatment on the first of January, 1835, one hundred and seven; forming an aggregate of thirteen hundred and fifty patients prescribed for by the surgeons during the year 1835. Of this number, 1,110 were cured; 83 relieved; 22 declined treatment; 19 discharged as incurable; the results of 69 cases have not been ascertained, and 47 remain under treatment.

RECAPITULATION.

Patients admitted during the year 1835,.....	1,243
Remaining, 1st January, 1835,.....	107
	<hr/>
	1,350
	<hr/>

Of this number there were cured,.....	1,110
Relieved,	83
Not ascertained,	69
Declined treatment,	22
Incurable,.....	19
Remain under treatment,.....	47
	<hr/>
	1,350
	<hr/>
Admitted previously to the 1st January, 1835,.....	14,284
do during the year 1835,.....	1,350
	<hr/>
Total number since the foundation of the Infirmary,....	15,634
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Diseases treated at the Infirmary.

Of the Eye.

Inflammation of the conjunctiva,.....	279
do do with prurulent discharge, (adults,)	29
do do do (infants,)	35
do do strumous,.....	65
do do with pustules,	75
Granulated lids with vascular cornea,.....	30
Inflammation of the cornea,.....	150
Ulcers of do	76
Opacities,	35
Pterygium,	4
Staphyloma,.....	4
Iritis,.....	67
Scleritis,	5
Cataract,	22
Amaurosis,	72
Strabismus,	1
Tinea ciliaris,	59
Lippitudo,	47
Inversion of the lids,.....	4
Eversion do	1
Tumors do	21
Abscess do	6
Diseases of the lachrymal passages,.....	15
Wounds and injuries,	67
Ophthalmitis,	3
Anomalous,.....	21

Total,..... 1,813

Diseases of the Ear.

Otorrhœa,	13
Paracusis,	10
Otitis,	3
Otalgia,	2
Inspissated cerumen,	2
Total,	<u>30</u>

EDWARD DELAFIELD, M. D.

J. KEARNEY ROGERS, M. D.

JAS. EDW. CORNELL, M. D.

GEORGE WILKES, M. D.

*April, 1836.**Surgeons.**Statement by the Treasurer for 1835, pursuant to an act of the Legislature, passed in May, 1834.*

Balance from former report,	\$21 52
Cash collected,	252 50
Legislative appropriation,	1,000 00
Interest on permanent fund,	117 24
	<u>\$1,391 26</u>

Expenditures.

Rent of the Infirmary to 1st February, 1836,	\$500 00
Drugs and medicines,	337 04
Apothecary's salary,	175 00
Surgical instruments,	39 90
Current expenses,	144 16
Balance in treasury,	195 16
	<u>\$1,391 26</u>

JOHN DELAFIELD, *Treasurer.**April, 1836.*

STATE OF NEW-YORK.

No. 101.

IN SENATE,

May 12, 1836.

ADDITIONAL TESTIMONY

Relative to the official conduct of Isaac W. Bishop.

In the matter of an investigation into the official conduct of Isaac W. Bishop, a Senator of the State of New-York.

TUESDAY, 4 P. M.—MAY 10, 1836.

The committee met pursuant to the following resolution:

“STATE OF NEW-YORK, }
IN SENATE, *May 9, 1836.* }

“*Resolved*, That the testimony taken, and reports made, by the committee of investigation, relative to the charges against the Hon. J. C. Kemble and the Hon. Isaac W. Bishop be recommitted to the said committee, and that they be directed to take such newly discovered evidence as the above named Senators, or the complainants, may desire to produce, properly appertaining to the subject of investigation.

“By order.

“JOHN F. BACON, *Clerk.*”

Levi Hubbell being sworn, doth say, I know John I. Mumford; in November last I heard Mr. Mumford speak about Mr. Bishop at a public table, at dinner, in Congress-Hall; when he came into the room he appeared under considerable excitement, and I believe from liquor. He commenced himself a general conversation, talking loud. The first I remember he said, was, that he had been in the Senate, (the court for the correction of errors were then in session.) He said he had been in the Senate, had given his hand
[Senate, No. 101.]

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to every member except the Hon. I. W. Bishop; he did not give his hand to him, for he was the damn'dest rascal that ever existed, or that the country produced; and spent a long time in inventing epithets to express his malice and hostility against Mr. Bishop, and his belief in his depravity. He said he had the evidence of his being a rascal or scoundrel, in his pocket, and would produce it at the proper time. I understood him to refer to a communication from Mr. Bishop to M. M. Noah, made in 1832, of which Mr. Mumford had several times before spoken to witness. The first time I heard him speak about it was in the spring of 1834; he then asked witness to his room in the City Hotel, Albany, for that purpose; he then said that he had a document in his possession which would blow up Mr. Bishop of the Senate. I think he said it would show him to be a corrupt, deceitful villain or scoundrel. Mumford was strongly excited, and under the influence of liquor at that time, but I think knew what he said perfectly well. His charge, in substance, against Mr. Bishop was, that he, Bishop, had written a letter to Mr. Noah of the Courier and Enquirer, concerning him, to go in his paper, while he professed to be friendly to him, Mumford, who was then conducting the Standard. I never heard Mr. Mumford speak of Mr. Bishop in unfriendly terms, except when he, Mumford, was under the excitement of liquor, and I never saw him under the excitement of liquor, when he did not then speak of Mr. Bishop. He said at the table at Congress-Hall, that in relation to the abstraction of the funds of the Commercial Bank, he knew nothing of the facts, but he believed he, Bishop, would be found to have had a share in it, as he, Bishop, was as corrupt as ever Bartow was. He referred more than once to the something he had in his possession, which I supposed was the letter before alluded to, and that it would be produced at the proper time; and I did not understand him to refer to any thing else. Mr. Mumford and I have always been, and are at this time, on friendly terms.

Examined by Mr. Van Schaick. Allusions were made by Mr. Mumford at Congress Hall table, to certain articles which had appeared in the public papers, implicating Senators as being concerned with Bartow in the abstraction of the funds of the Commercial Bank.

Examined by Mr. Stevens, of counsel.—I have been on terms of intimacy and friendship with Mr. Mumford since May, 1833; as a man of truth, I think Mr. Mumford is of the most entire credibility; Mr. Mumford has unfortunately at times been under the influ-

ence of liquor, and some qualifications must be made as to the correctness of his recollection of what took place at such times. He, Mumford, in the conversation alluded to, exhausted the English language, both figurative and plain, in inventing epithets to express his hostility and malice against Mr. Bishop, and in conversing on other subjects at those times, his language was equally strong and extravagant. I knew nothing of Mr. Mumford's hostility against Mr. Bishop, except from the conversations above detailed; except that he, Mumford, told me that spring that he had last spring spoken to Mr. Bishop in relation to the appointment of Mr. Hone. I understood Mr. Mumford last spring to say, that he had become reconciled to Mr. Hone, and that there had been a previous difference between them. In the fall of 1832, Mr. Mumford was the editor of the Standard, and continued as such editor until the fall of 1834.

LEVI HUBBELL.

Azariah C. Flagg being sworn, doth say: I have known John I. Mumford six or eight years. I heard Mr. Mumford speak in relation to Mr. Bishop during the session of the Court of Errors last fall; I heard the conversation at a public table at Congress Hall; he, Mumford, came in rather boisterous, and had evidently been drinking very much; he came in to dinner; he rather addressed himself to Gilchrist, who set at the head of the table, and said, in reference to the Commercial Bank matter, which was then generally talked about, that Bishop was a damned rascal; he said that he had the documents or letters to prove his assertion; my impression further is, that he referred to me, and said, you have seen them; my recollection is, that in relation to the abstraction of the funds of the Commercial Bank, he said he did not know that Bishop was connected with that, and that he referred to other matters; he made the remark that he had been in the Senate, and had shaken hands with all the Senators, except Mr. Bishop, and that he could not get his hand out of his pocket to shake hands with him, or something to that effect; I do not remember that he made use of any harsher expression in relation to Mr. Bishop than what I have stated. I left Mr. Mumford at the table; I left the table with my wife and daughter. Mr. Gilchrist, with whom Mr. Mumford conversed, was a director of the Commercial Bank, and boarded at Congress Hall.

Examined by Mr. Stevens.—The most implicit confidence is to be placed in Mr. Mumford's veracity in his sober moments. He

is rash, violent and extravagant on all subjects, when he is excited by liquor.

A. C. FLAGG.

Adjourned to 4 P. M. of Thursday. •

THURSDAY, MAY 12—3 O'CLOCK.

The committee met pursuant to adjournment.

Robert Emmet being sworn, says, I reside in the city of New-York, and am acquainted with Henry Hone, of that place. During the session of the Legislature, in the year 1835, he was appointed an auctioneer for the city of New-York; I was in Albany at the time of the appointment; I knew Isaac W. Bishop, who was a member of the Senate at that time, and I believe resided in the county of Washington.

Question by Mr. Stevens. Did you raise, or were you instrumental in raising any sum of money to be paid by Mr. Hone to Mr. Bishop, previous to the confirmation of Mr. Hone's nomination in the Senate?

[The counsel for Mr. Bishop objects to the question as a leading question, illegal, and contrary to the rules of evidence; and insists that the witness, in lieu of answering it, be required to relate the facts within his knowledge on the subject.

Mr. Stevens, as counsel for Mr. Benedict, assents that the witness do relate the facts.]

Ans. Within a day or two of the first of May last, it was expected the Governor would send Mr. Hone's nomination as auctioneer to the Senate. The day on which his nomination was expected to be acted upon by the Senate, I was sitting with Mr. Hone in the Senate chamber; while we were sitting there, Mr. John I. Mumford came near where we were setting, and told Mr. Hone that he, Mr. Hone, must do something with Mr. Bishop, as he, Bishop, appeared hostile to his, Mr. Hone's, appointment.

[The counsel for Mr. Bishop objects to the admissibility of the conversations of Mr. Mumford and Mr. Hone. Mr. Bishop not being present.

The committee overrule the objection of the counsel, and decide the evidence to be admissible.]

The witness further says, Mr. Hone expressed his astonishment at this, and said he and Mr. Bishop were on good terms. Mr. Mumford said he was satisfied from Mr. Bishop's manner and conversation, that he intended to vote against the confirmation of his nomination. It was then suggested by myself I think, that we should get Mr. Livingston to speak to Mr. Bishop, and ascertain the cause of his hostility. Mr. Livingston was in the Senate chamber, and was beckoned to and came over to us. Mr. Livingston was informed of what had taken place, and was requested to speak to Mr. Bishop and find out what he really meant, and whether he meant to oppose Mr. Hone, and upon what grounds. Mr. Livingston went and spoke to Mr. Bishop, who was in the Senate chamber at the same time; and in course of five minutes returned to where we were sitting. He stated that Mr. Bishop said to him, Mr. Hone has no right to expect any favors from me, unless he pays me that debt which he owes me. Mr. Hone was then asked by myself or Mr. Livingston what debt he owed Mr. Bishop. He said it was true he did owe him a debt. He added also, that he, (Hone,) was astonished at this, as he had been in the daily habit of meeting him, Mr. B., on friendly terms since this debt was incurred. He also said it was a debt incurred at cards. I think Mr. Mumford suggested, that if that debt was not paid, Mr. Hone's nomination was in jeopardy. It was the opinion among ourselves, that it was better to pay it. Mr. Hone was asked, whether he was able to pay the debt then? and he said he was not. Mr. Hone said he had promised to pay Mr. Bishop as soon as he could after his return to New-York, and that Mr. Bishop had appeared satisfied with that. I told Mr. Hone, that if I could accomplish it, rather than his nomination should be lost or endangered, I would raise the money for him. I asked what the amount of it was, and Mr. Hone said it was upwards of \$400. I then went down to the Mechanics' and Farmers' bank, and Mr. Olcott told me I could draw upon New-York for what money I wanted, and I drew for \$450, which Mr. Olcott gave me. I returned then to the Capitol, and outside of the door of the Capitol Mr. Hone, Mr. Livingston and myself met together. I was then told by Mr. Hone, that the amount was \$420. I handed \$420 to Mr. Livingston, and he went with it into the Senate chamber, as I supposed.

Cross-examined by Mr. Storrs.—When Mr. Livingston went toward the Senate chamber, he left Mr. Hone and myself together. Mr. Hone and myself walked from the capitol together down to the Eagle Tavern; I handed the money to Mr. Livingston for the purpose of his handing it to Mr. Bishop, Mr. Hone admitting the debt to be due; it was done with Mr. Hone's full knowledge and assent; I had full knowledge for what purpose the money was given to Mr. Livingston, when it was handed to him; Mr. Livingston took the money for the purpose of paying it to Mr. Bishop. It was not specifically stated in the conversation had in the Senate chamber, whether the debt was for money lent at the card table, or for money won at the card table, but it was spoken of as a debt incurred at the card table.

[It was admitted by the counsel for Mr. Benedict, that the letter hereto annexed marked as Exhibit A, is in the handwriting of Mr. Hone.]

Witness further says, neither witness nor Mr. Hone, to witness's knowledge, had any conversation with Mr. Bishop on the subject at any time.

Q. Did you not in that conversation say that Mr. Bishop would, in your opinion, vote for Mr. Hone's nomination without the payment of the debt above alluded to.

A. I did not.

Q. Do you know of Mr. Bishop's having opened any conversation with any person on this subject?

A. I do not of my own knowledge, except I saw Mr. Livingston and him in conversation together in the Senate chamber, as I have heretofore stated.

R. EMMET.

Charles L. Livingston, being recalled, says as follows: I have heretofore sworn that I knew that a sum of money was paid to Mr. Bishop, which sum of money was handed to me by Mr. Emmet, in the presence of Mr. Hone, and delivered by me to Mr. Bishop, in payment of a debt admitted by Mr. Hone to be due to Mr. Bishop, without any reference to Mr. Bishop's official conduct. If I had then understood it had been paid to or claimed by Mr. Bishop with a view of influencing his action, I should have been inspired with a sentiment of indignation, and presented his conduct to the Senate.

CHAS. L. LIVINGSTON.

Adjourned sine die.

(EXHIBIT A.)

New-York, 15 April, 1835.

MY DEAR SIR,

I left Albany without arranging the small matter of account which exists between us. I had intended to have returned to the city, which is honored by your temporary residence, almost immediately; but I have hitherto been prevented, and am obliged to start, to-morrow, in a different direction, so that it will probably be two or three weeks before I have the pleasure of seeing you. Trusting that this delay will be of no inconvenience to you,

I am, very truly,

Your friend,

HENRY HONE.

HON. ISAAC W. BISHOP,
Albany.

STATE OF NEW-YORK.

No. 102.

IN SENATE,

May 12, 1836.

ADDITIONAL TESTIMONY

In relation to the Commercial Bank Investigation

In the matter of an investigation ordered by the Senate of the State of New-York, on the subject of the abstraction of the funds of the Commercial Bank of the city of Albany, by the late cashier thereof and others.

WEDNESDAY 4 P. M.—MAY 11, 1836.

The committee re-assembled in pursuance of the following resolution:

“STATE OF NEW-YORK, {
IN SENATE, May 9, 1836.” }

“*Resolved*, That the testimony taken and reports made by the committee of investigation relative to the charges against the Hon. John C. Kemble and the Hon. Isaac W. Bishop be recommitted to the said committee, and that they be directed to take such newly discovered evidence as the above named Senators, or the complainants, may desire to produce, properly appertaining to the subject of investigation.

“By order.

“JOHN F. BACON, *Clerk*.”

Edwin Crosswell, a witness produced on the part of the accused, was sworn, but before he testified the counsel for the bank interposed the following objection, in writing:

“The counsel for the bank respectfully submit to the committee, so far as the bank may be concerned, whether the declarations, [Senate, No. 102] A

writings or allegations of Mr. Kemble, made at times not before inquired of, and long subsequent to his alleged improper conduct, should be given as evidence to exculpate him from any charges made against him.

The witness then testified as follows: I know Mr. Kemble's hand writing, and the communication marked as exhibit A, is in his hand writing, and was received by me on the day of its date. I was then the editor of the Albany Argus, and State Printer. Previous to receiving the above communication from Mr. Kemble several New-York and other papers had published articles charging some individuals "who sat in high places in Albany," as being implicated with Bartow in his roguery. I replied, in the Argus of the 23d November last, to the charges or insinuations, and on the same day received the above letter from Mr. Kemble. On the 25th November I published an article, calling specifically, on those journals for facts, dates, names and charges, in reference to their innuendoes and insinuations.

EDWIN CROSWELL.

Saml. Stevens being sworn, doth say, I reside in the city of Albany, and board at the City Hotel; I am a stockholder in the Commercial Bank; I am counsel for the bank in this investigation relative to the abstraction of its funds by Mr. Bartow, so far as the bank are concerned; I am acquainted with John L. Schooncraft and John C. Kemble, and we all, during the last winter, boarded at the same house; I remember the appointment of this committee, but do not remember the day. I think I was informed of the appointment of this committee, on the morning after it took place; I had a conversation with Mr. Kemble on the same day on which I heard that the first action was had on the petition of the Commercial Bank by the Senate; I cannot relate the whole of that conversation, but I can give the substance of it; I believe I commenced the conversation with him in relation to what I had understood he had said in the Senate, in relation to the application of the Commercial Bank, for an increase of its capital. Having understood that Mr. Kemble had said in the Senate, that the Commercial Bank had accused him and other Senators as being concerned with Mr. Bartow in his frauds and speculations on the bank, and that this was so said in prejudice of the application of the bank, I accosted Mr. Kemble after tea, and said that in my opinion he was unauthorized and without justification to make

such a charge against the bank; that whether individual stockholders or directors had made such charges, or authorized others to make such charges against him, I did not know, but that the bank, as a corporation, had never to my knowledge or belief made, or authorized to be made, such charges against him, and that it was hard that the stockholders should be prejudiced in their application to the Legislature in consequence of what any individual stockholder or director might have said. Mr. Kemble replied, that I had been misinformed as to what he had said in the Senate; that he had not charged the bank with having made the charges against him, to which allusion had been made. (On looking next morning in the Argus, I found that Mr. Kemble's remarks were reported, in substance, as he had stated to me that he had made them.) The above conversation was continued; I stated to Mr. Kemble, that I did not suppose or believe, that the bank, as such, had made or intended to make any charges against Mr. Kemble, implicating him as being concerned with Bartow in his frauds upon the bank; that I hoped and wished the application of the bank to the Legislature might not in any way be connected with what individuals had said against him, or be prejudiced thereby. Mr. Kemble stated to me, that if the bank did not become a party to the charges, the application would not be connected with it, and would be acted on in the usual way, without reference to these charges; but if the bank did become a party to the charges, then an application could not be acted upon until those charges should be investigated. Mr. Kemble said he felt friendly to our application, and thought we presented a meritorious claim for relief, and that he felt particularly called upon to aid our application, as he might be deemed to have been instrumental in the loss of some part of the funds of the bank, though innocently on his part. He said, if either the bank or individuals had any charges against him he wanted them made. This conversation between Mr. Kemble and me, took place before I was spoken to by the bank to act as counsel in this matter; I am not the general counsel for the bank; I drew, as counsel for the bank, the letter of the 19th February last, from the president of the bank to the chairman of the committee, a copy of which is hereunto annexed, marked as exhibit C, in answer to a letter from the chairman to the president of the bank, inclosing a copy of the resolution, dated 18th February last, marked as exhibit B; I also as counsel for the bank, drew the expose, submitted to the committee on 23d February last, which

expose was in compliance with what we had proffered in our first communication; I drew this expose, upon receiving the letter, marked exhibit D, from the chairman, dated the 20th February last, addressed to the president of the bank.

Examination by Col. McKown. The resolution enclosed in the first letter of the committee to the bank, was broader than any charge the bank had intended to make against the Senator, and the bank therefore deemed it proper and advisable to have the committee distinctly apprised of the charges which they intended to make, and they also thought it was proper and just on their part to disclaim all the charges embraced in the resolution which they did not intend to make.

SAM'L STEVENS.

Isaac McConife being sworn, doth say, I saw Mr. Kemble shortly after the appointment of this committee, and he informed me that a communication had been received from the bank by the committee, in which the bank disclaimed making any charges against him as a bank, but that the communication stated that some individual directors had said that he was concerned with Bartow in his frauds upon the bank, and he feared the chairman would be satisfied with this communication, and that the investigation would not proceed, and that his character would be as much injured as if the charge had been made against him by the bank as a bank, and that he wished the investigation would proceed, in order that he might disprove those charges. He wished me also to see the chairman, and desire him to call upon the bank to have the investigation go on. I stated to him that I was not so well acquainted with the chairman as some other gentlemen, and he wished me to call on Mr. Stephen Warren and desire him to see the chairman, and urge him to have the investigation proceed. The next morning, or the next but one, I understood Mr. Stephen Warren was coming from Troy to Albany, and I came down myself, in part for the purpose of calling on the chairman of this committee, in pursuance of Mr. Kemble's request. I called at the room of the chairman, and he did not happen to be in; I then called on Mr. Kemble, and he told me it was not necessary for me to call, as he understood the chairman had called on the bank to make a further statement.

I have been acquainted with Mr. Kemble since the year 1826.

Quest. During that time and up to the present time, what has been his character as a man of integrity and honor?

Ans. I cannot say that I ever heard any thing against it, except the present charges.

I. McCONIHE.

James Van Schoonhoven being sworn, says, the first time I saw Mr. Kemble after the appointment of the committee, I had a conversation with him on that subject, and asked him whether the matter was to be pursued any farther after the bank had stated to the committee, that they had no charges to make as a bank; and advised him to drop it if it was in his power. He replied to me with considerable warmth, and said that he was determined to have charges presented so that he could explain them away on an investigation, as the public had got hold of them, and his character would otherwise be injured.

I have known Mr. Kemble since about the year 1826.

Q. During that time, and up to the present time, what has been his character and standing, as a man of integrity and honor?

A. It has been good as far as I know, except these charges.

J. V. SCHOONHOVEN.

John Paine being sworn, says, I have been intimately acquainted with Mr. Kemble since the year 1829.

Q. During that time, what have been his character and standing as a man of integrity and honor?

A. Excepting what may have grown out of the heat of political contests, and what may have proceeded from the subjects of this investigation, I have never known any thing detracting from his character as a man of integrity and honor.

JOHN PAINE.

Nicholas M. Masters being sworn, says, I have known Mr. Kemble since 1827 or 1828; and during that time I have known nothing against him as a man of integrity and honor, except in the instances mentioned by Mr. Paine, and from some persons who have differed from him in religious matters. I have known him somewhat intimately, and was a member of Assembly with him in 1832, and boarded in the same house with him. In the common acceptance of language, I know nothing against his character as a man of integrity and honor.

N. M. MASTERS.

Elias Pattison being recalled, says, I have been intimately acquainted with Mr. Kemble since 1827. and during that time to the present time, I have known nothing against the character of Mr. Kemble as a man of integrity and honor, except in the instances detailed in the testimony of Mr. Masters. In those respects it has been said he did not belong to the right party or the right church.

ELIAS PATTISON.

Joseph E. Bloomfield being recalled says, Mr. Kemble told me at the Hotel in Troy, that the Harlaem rail-road bill would pass; that Mr. McDowell would withdraw his amendment to the bill. Prior to my visit to Mr. Kemble at Troy, I understood from him that he was favorable to the bill, and I was surprised at finding him afterwards opposed to it, which was the cause of my visit to him. I had no conversation other than I have testified to, prior to the present investigation, with him, at any time, on this subject; I do not know any other matter or thing in relation to the subject matter of inquiry under the resolution of the Senate. When I went up to Troy to see Mr. Kemble on the Harlaem rail-road bill, I met him in the Hotel, and he asked me what I had come there for, and I told him I had come to play a tune upon his "Jews-harp," in allusion to his speech of the previous day. He then made the observations which I have already testified to.

Examined by Mr. Jordan—I last winter applied to the Legislature for the revival of the charter of a rail-road from New-York to Albany. I do not know whether Mr. Kemble opposed that bill or not; I have applied for the same charter this year; I asked Mr. Maison to have my name withdrawn from the bill, and to substitute the name of Gideon Lee; I do not know that Mr. Kemble was opposed to having my name put in the said bill, but I believe he was rather friendly to it.

JOS. E. BLOOMFIELD,

DOCUMENTS.

(A.)

Letter from John C. Kemble to Edwin Croswell.

Senate Chamber, Albany, Nov. 23.

Editor of Albany Argus,

Dear Sir—I am apprehensive that the tenor of your article in this morning's Argus, exhonouring all republicans, &c., and those who "sit in high places," "*of the city*" of Albany, will induce the Courier and Enquirer, the Evening Journal, or their adjuncts to call for the exhoneration of those residing *out of* the city of Albany. With Mr. Bartow I had some dealings, and possibly the "rumors" of the whig prints may refer, among others, to me. I am quite willing all *my* transactions with Bartow should be made known to the whole world, or written in the stars, and my purpose in thus addressing you is to authorize you to say, should you have occasion, that I challenge the utmost scrutiny and investigation. I desire nothing so much as, that if any of those "rumors" of a participation in the "roguery" of Bartow refer to me, such reference may be made *so specific* that I can meet it. Conscious as I am, that *no transaction* of mine with Bartow was either iniquitous, or fraudulent, or roguish, and knowing as I do, that there exists not in the world, in "private letters" or elsewhere, any, the least proof against me, I can invoke an investigation with the utmost conscientious security.

Respectfully yours,

JNO. C. KEMBLE.

E. CROSWELL, Esq.

(EXHIBIT B.)

Letter to John Townsend, President Commercial Bank.

SIR,

Enclosed is a copy of a resolution adopted by the Senate on the 16th inst.

I am instructed by the committee who are charged with the investigation, to inform you that they are ready to receive any communication in relation to the subject matter of the resolution, which you may deem proper to make.

Very respectfully,
Yours, &c.

S. YOUNG, *Ch'n.*

18th February, 1836.

JOHN TOWNSEND, Esq.

President of the Commercial Bank.

STATE OF NEW-YORK, }
IN SENATE, February 16, 1836. }

Resolved, That the petition of the directors of the Commercial Bank be referred to a select committee, with instructions to inquire whether any member of the Senate of this State was concerned with the late cashier of that institution in his abstraction of its funds, or his frauds or peculations connected therewith, with power to send for persons and papers; and that Mr. Young, Mr. Lacy, Mr. Mack, Mr. Van Schaick and Mr. Livingston, be the said committee.

By order,
JOHN F. BACON, *Clerk.*

(EXHIBIT C.)

COMMERCIAL BANK, }
Albany, February 19th, 1836. }

HON. SAMUEL YOUNG,
SIR,

I have received your note of the 18th inst. inclosing a copy of the resolution of the Senate, raising a committee to inquire whether any member of the Senate of this State was concerned with the late cashier of this bank in his abstraction of its funds, or his other frauds and peculations connected therewith. In which note, you also mention that you are instructed by the committee charged with the investigation, to inform me that the committee are ready to receive any communication in relation to the subject matter which the bank may deem it necessary to make.

I have laid the resolution, together with your note, before the board of directors; and am instructed by them to say, that the board have never made or authorized any charge against any member of the Senate, of being concerned with the late cashier in his frauds or peculations upon the bank; nor have they authorized any publication of that or any other description, against any member of the Senate.

They have therefore no communication to make to the committee upon that subject. But the board beg leave respectfully to state, that some of its members have said, and the board have rea-

son to believe from facts and documents in their possession, that some members of the Senate were concerned and interested with the late cashier in extensive stock transactions; and that funds to a large amount were drawn from this institution upon the checks of those senators, when they had no funds in the bank.

The board, at this time, forbear giving the name of any gentlemen, not knowing whether the committee will think proper, under the resolution, to inquire into that matter; but should the committee think proper so to do, the board will furnish them with all the facts and documents in their possession, and render the committee every aid in their power to facilitate the investigation.

JOHN TOWNSEND, *Pres't.*

(D.)

*Letter to John Townsend, President of the Commercial Bank, Albany.
February 20, 1836.*

SIR—Yours of the 19th inst. is received.

In relation to the subject matter of the investigation, you say, that "some of the members of your board have said, and the board have reason to believe from facts and documents in their possession, that some members of the Senate were concerned and interested with the late cashier in extensive stock transactions; and that funds to a large amount were drawn from this institution upon the checks of those Senators, when they had no funds in the bank."

You further state, that "the board will furnish the committee with all the facts and documents in their possession, and render the committee every aid in their power to facilitate the investigation."

In their memorial to the Legislature, your board allege that they "had taken all legal measures to have presented all the facts in relation to the abstraction of their funds by their late cashier and other persons; but in consequence of an error in the publication of the notice required in the city of New-York, they will be unable so to do, until after the close of the present session of the Legislature."

The committee have inferred from the above, that your board was really desirous of an investigation. And in reply to yours, I am directed to state that the committee will readily accept the aid which your board has tendered, to facilitate the investigation; and will receive "the facts and documents" whenever the board will communicate them: And that for this purpose they will meet on Monday, the 22d inst. at 4 o'clock P. M. at the Mansion House, Albany.

Very respectfully, yours, &c.

S. YOUNG, *Chairman.*

20th February, 1836.

JOHN TOWNSEND, Esq.

Pres't of the Commercial Bank.

[Senate, No. 102.]

B

(E.)

Copy of a Note addressed to the Hon. John C. Kemble and Hon. Isaac W. Bishop, by Chairman of Committee.

HON. JOHN C. KEMBLE,

SIR: I am instructed by the committee of investigation to inform you that the Commercial Bank has presented to the committee statements and documents implicating you as being concerned with their late cashier, Bartow, in abstracting the funds of that bank, &c.; and that the committee will meet at 5 o'clock this afternoon, at the Mansion House, Albany, at which time and place they will exhibit to you the said statements and documents.

S. YOUNG, *Chairman.*

25th February, 1826.

The same for Mr. Bishop.

The following communication of J. Delafield, was referred to the committee on the Commercial Bank investigation, with directions to have it printed and appended to their subsequent report.

New-York, 10th May, 1836.

HON. SAM'L YOUNG, *Chairman, &c.*

Dear Sir—The testimony taken before the committee of the Senate on the Commercial Bank investigation, was received by me this morning; in which I find my name used in connexion with Mr. Seymour, Governor Throop and others, as engaged in the stocks of the Rensselaer and Saratoga, and Saratoga and Washington rail-roads, and other companies, with a view to running them up.

Though the negation of Mr. Seymour appended to the testimony, applies equally to myself in fact; I beg leave to add, that at no time have I purchased either of the stocks named, nor of the Long-Island rail-road, or of any other rail-road company, either directly or indirectly: nor have I authorized any such purchases to be made by any other person or persons for me, at any time, either for cash or on time, for future delivery. Neither have any of the stocks alluded to or mentioned in the testimony, ever been held by me or in my name, except as collateral security for loans made by the president and directors of the Phoenix Bank, and except that as a director of the Long-Island rail-road company I hold ninety-nine shares, being a part of two hundred shares originally allotted to me by the commissioners at the time of distributing the stock.

Neither of the gentlemen whose letters are given in the testimony, were in any way allied, connected or interested with the parties to whom the loans were made, above referred to.

It is very probable, if my opinion was sought, that I gave it frankly; though I am not aware that I ever ventured to advise either purchases or sales.

At page seven, reference is made to the purchase of stock of the Rensselaer and Saratoga company, and operations in Troy: Here again the parties were misinformed; for at no time have I ever had any thing to do with either purchases or sales of that stock, or of any other stock in Troy.

The letter alluded to as in my possession, (page 18,) was left with the bank as evidence of the authority to draw for the check therewith presented, being for \$1,000; it was paid for, and forwarded the same day for collection in usual course, being an ordinary transaction of the bank.

At page 35, in relation to the Saratoga and Washington railroad, the parties were also misinformed. No agent was sent by me. Gideon Davison, Esq. subscribed for the stock, and placed it in my name as collateral security for a loan made by the president and directors of the Phoenix Bank on well secured notes, as in the ordinary business of the bank.

At page 39 allusion is made to scrip left in my possession to the 10th June. This I find is explained at page 54, as having been left as collateral security upon a check presented for payment or collection.

Fearing that wrong impressions might be made by the letters printed with the evidence given, if unnoticed, you will do me a favor by causing this letter to be appended or added to the documents which accompany your report.

Respectfully yours,

J. DELAFIELD.

STATE OF NEW-YORK.

No. 104.

IN SENATE,

May 25, 1836.

REPORT

Of the select committee on the Commercial Bank investigation, in the case of John W. Edmonds.

Mr. Livingston, from the select committee appointed by resolution of the 16th February last, to inquire into the abstracting of the funds from the Commercial Bank, submit their report and opinion in the case of John W. Edmonds, late a member of this body.

The Senate will remember that at the solicitation of Mr. Edmonds, the committee was empowered to examine into the transactions of the past as well as the present members, with the late Cashier Bartow. Soon after the committee was raised, Mr. Edmonds apprised them of his desire to have his connexion with Bartow investigated; and he was informed that he should have due notice when the committee would be prepared to hear him. He received such notice from the late chairman, sometime in April last, and attended before the committee. His statement and the evidence adduced are herewith submitted to the Senate.

From these documents it appears that as early as 1827, the citizens of Hudson were anxious to establish a rail-road communication between that city and West Stockbridge, Massachusetts, and that Mr. Edmonds, by virtue of his official station as recorder of Hudson, was called upon to take, and did take an active part in the measure, and in obtaining an act of incorporation, which was granted in 1828.

[Senate No. 104.]

A

It also appears that the company was not organized under that charter, and that he was twice called upon while in the Senate, to have the act of incorporation renewed, which he caused to be done. In April, 1835, when the last act of renewal was about expiring, the citizens of Hudson determined, for the first time, to make an effort to organize their company. They accordingly held a public meeting, at which Mr. Edmonds was appointed one of a committee to enlist foreign capitalists in the undertaking; and in the language of one of the witnesses, "he was specially charged with the duty of obtaining subscriptions in Albany." He assumed that task, and among others, solicited Thomas W. Olcott, Esq. to engage in it, but without success. It seems that Bartow heard of his efforts, and voluntarily offered to Mr. E. to take up the whole stock. This offer Mr. E. communicated to his fellow citizens, and made several journeys between Albany and Hudson, until it was finally arranged between him and the citizens of Hudson, and between him and Mr. Bartow, that he should procure as large a subscription from him, and as much stock for him, as should be consistent with the desire of those citizens to retain a majority of the stock under their control. It was determined that he should subscribe \$50,000 for Mr. Bartow. He authorized that amount to be subscribed, and drew his check on the Commercial Bank for \$5,000, for that purpose, Mr. Bartow approving of the course and promising to meet the check when it should be presented. Only \$4,000 of the check was used; the other \$1,000 was immediately returned to Mr. Bartow. On the distribution of the stock, 330 shares, or \$16,500, were allotted to Mr. Bartow's subscription. The certificates for which were issued and delivered to Mr. B., and by him disposed of according to his own pleasure. Bartow, not satisfied with the amount allotted to him, requested Mr. E. to purchase some for him; and under this direction, 47 shares were bought, and the certificates delivered to and disposed of by Bartow in like manner. And it appears from Bartow's letters and the testimony which accompany this report, that of the \$5,000 drawn on the check, \$2,800 were returned to B., and \$2,002.50 paid for the stock which was thus delivered to Bartow, leaving in Mr. E's hands \$397.50 belonging to B., which was not liquidated because that Mr. E. and Bartow never met but once, and then accidentally; after the distribution and purchase of the stock were brought to a close.

It appears from the expose of the bank, that when Mr. E. repaid Mr. Bartow the \$2,600, the balance of the check was charged to Bartow's account on the books of the bank. This was as early as the 1st July, 1835.

This is the extent of Mr. Edmonds' transaction with Bartow. There is not the slightest evidence that he had any other connexion or dealing with him, either directly or indirectly, in any other matter, or that he was in any other manner concerned with him in any of his dealings in stock: And in this transaction Mr. E. has evidently acted, not from a desire to advance his own interest, but from a willingness to aid his fellow citizens in carrying into operation an internal improvement in which they had manifested a deep interest, and which they believed to be of great importance to them. And the committee are at a loss to discover any thing in the case derogatory to Mr. Edmonds' character or conduct, or which ought to impair public confidence in his integrity.

It ought to be particularly observed, that Mr. Edmonds' only transaction with Bartow was as early as the 5th May, 1835; and it is fully established in evidence, that at that time Bartow was reputed to be, and was in fact, a man of considerable property, of fair and unimpeachable standing in the community, and was enjoying the unlimited confidence of the officers of the Commercial Bank; yet, notwithstanding all this, Mr. E. took the precaution to make farther inquiries into his character and standing, and received favorable answers.

The committee cannot conclude this report without expressing their regret at the course which the Commercial Bank has pursued in regard to Mr. Edmonds. It will be observed that in the several documents which they have laid before the committee, they have endeavored to connect him with the stock operations of Messrs. Bartow, Bishop and Kemble. In their "expose," after giving a history of the operations in regard to the Harlem railroad, they say: "*The evidence of Mr. Edmonds' connexion in these stock transactions, will be hereafter stated.*" Yet they have never in any manner either stated or produced any evidence of any connexion whatever of his, in "these transactions."

Again they say, "as to the fact that funds to a large amount were drawn from this institution upon the checks of Mr. Bishop, Mr. Kemble and Mr. Edmonds, for the purpose of carrying on

these stock transactions, when those gentlemen had no funds in the bank," clearly intending to imply that Mr. E. was equally concerned with those other gentlemen in "*these stock transactions*." Yet they fail to show that there was any connection whatever between him and them in any of their transactions.

Again, in their statement marked exhibit N. they speak of Mr. E's check as "not charged to account, but held and accounted as cash; also by his (Bartow's) directions," without showing that Mr. E. was or could be aware of this irregular conduct of their cashier, and without adverting to the fact that they had asserted in another document, that Bartow had directed that amount to be charged to his account. In fine, they evidently intend to prefer their charges as much against Mr. E. as against either Messrs. Bishop or Kemble.

Under these circumstances, the Senate will doubtless be surprised to learn that when the committee had appointed a time for the investigation of these charges against Mr. Edmonds, no effort of his, or of the committee, could induce either the officers or counsel of the bank to appear before the committee.

The facts as to this part of the case appear from the testimony of Mr. Hill, the clerk of the committee; and it is due to Mr. Edmonds to say, that these efforts were made at his earnest solicitation: And the committee cannot forbear the remark, that if the charge of the bank against him was true, its officers owed it to the community as much to establish them against him, as against either of the other individuals implicated; and if untrue, that they owed it to the community, and above all to Mr. Edmonds, to admit their mistake. But the Senate will observe they did neither the one thing nor the other.

It is proper to say, that the late period at which this report is made, is in no respect attributable to Mr. E. He has all along expressed an ardent wish to have his matter examined and made public. The testimony in his case closed on the 25th April; but circumstances over which the present members of the committee had no control, have prevented their earlier action upon it.

In conclusion, the committee believe that it is but an ordinary act of justice, for the Senate to declare, as the committee do, that there is nothing in this transaction which ought to impair confidence in Mr. Edmonds' integrity, nor any thing which impugns his public or private character.

DOCUMENTS.

Letter from John W. Edmonds.

To the Hon. SAMUEL YOUNG,

Chairman of the Committee of Investigation, &c.

SIR—Your favor of the 6th instant, informing me that “on the 13th the committee would be ready to hear any explanations which I might think proper to give in relation to the suggestions contained in the expose of the Commercial Bank,” has been received by me with great pleasure. Until your committee was raised by the Senate, I had no opportunity, (although I sought for one with much anxiety,) of removing the imputation which had been industriously cast upon me, of being engaged with H. Bartow, in the acts which led to his frauds upon the Commercial Bank; and now in availing myself of the offer of the committee, I beg leave to express to the Senate and the committee, my gratitude for their kindness and consideration.

Although apprised at an early stage of your investigation, that the directors of that bank had endeavored to implicate me, yet I have not, as you are aware, taken any part in your proceedings thus far. I have purposely refrained from doing so, in order that those directors might have a full opportunity, without any interference or opposition on my part, to substantiate, if they could, their charge against me. I now, however, understand from you, that no evidence of any kind has been produced before your committee in reference to myself, excepting only that which is stated by those directors in the concluding part of their “expose.” I shall therefore confine myself to the explanation of that transaction.

In 1827, the citizens of Hudson and of some of the towns in Berkshire county, Massachusetts, contemplated the construction of a rail-road between those places. I was at that time recorder of Hudson, and by virtue of my official station, and of an appointment by our citizens, I took an active part in the measure. I made several journeys to Massachusetts on that business, and devoted much time and attention to maturing the project. Application was made to our Legislature for an incorporation, and on the 21st April, 1828, an act was passed to “incorporate the Hudson and Berkshire rail-road company.” I attended, during that session, a good deal at Albany upon that business, and indeed took a deep interest and an active part in all the measures calculated to

effect the construction of the road. Nothing was done under that charter except that a survey was made by engineers of the United States, in procuring whose services I also took part. After I was elected to the Senate, I was requested by some of our citizens to get the charter of the company renewed, and a revised act of incorporation was accordingly passed on the 26th April, 1832.—Again the charter expired, and I was again solicited to revive it; and it was revived by an act passed on the 6th of May, 1834. No company was organized under either of these acts of incorporation, until May, 1835. In the month of April of that year, the commissioners for the first time gave notice that the stock would be subscribed for. The books were to be opened on the 4th, 5th and 6th days of May, in the cities of Hudson and New-York. I was not at home when the commissioners took this step, but I was apprized of it at an early day; was informed of the strong interest which our citizens were manifesting in the project, and was solicited from various sources to use my best exertions towards having the stock taken. On one occasion when I was at home, during the month of April, a public meeting of the citizens was held upon the subject. I was urged to attend and address it, because of the interest which I had always manifested in the measure, and the information which it was well known I had, on a former occasion obtained in regard to it. I complied with the request, and at that meeting I was appointed, with others, as a committee to visit Albany, New-York, and other places, to enlist capitalists in our favor. I accepted the appointment, but as it was doubtful whether I could visit New-York, from the difficulty of being absent from the Senate at that advanced period of the session, I was particularly charged with the duty of seeking for subscribers to the stock in Albany. On my return to Albany I made some efforts to that end, but did not succeed, and I casually stated the fact one day in my room, and expressed my fears that our people would fail in their effort to organize their company. I do not recollect who was present, but I am confident Mr. Bartow was not, for I understood afterwards that my remark was repeated to him, and in consequence of that, he sent me word on the same or following day, that he would see that the stock of our company was taken up. I returned to Hudson by the first boat, and communicated his offer to some of those gentlemen who had taken the deepest interest in the matter. I was then apprized that arrangements had been made to have the majority of the stock taken at Hudson; but as they must depend upon foreign aid for the residue, I was requested to get Mr. Bartow to take as much as possible. At this time I found our citizens very much engaged in the project, and I do not know that I conversed with any one of them who did not speak of it and of my aid in having the stock taken up. On my return again to Albany, I for the first time had an interview with Mr. Bartow on the subject, and I then related to him the result of my visit to Hudson as above stated. I also informed him that although he could not have the whole or a majority of the stock, yet we were anxious that he should take largely. He

consented to do so, and wished me to get as much stock for him as I could. I then told him I intended. (if practicable for me to be absent from the Senate,) to be in New-York on one of the days when the books should be opened there, and I would then make the subscription. He replied, that if I would inform him on what day I should go, he would supply me with the money for that purpose. And here the matter rested until the books were opened on Monday, Tuesday and Wednesday, the 4th, 5th and 6th days of May.

Something occurred on each of those days to prevent my going to New-York; but it was not until the afternoon of Tuesday that I discovered that I could not be in New-York on Wednesday, and I determined that as the subscription must be made on Wednesday, if made at all, I must make it by letter, and not in person. I had received on Tuesday morning information of the amount subscribed in Hudson, which was about \$200,000, and that much more would not probably be subscribed there. I had no information as to the success in New-York, and I knew that it would depend upon the subscriptions there, whether our citizens were ultimately to succeed or be again disappointed in their hopes of making the road. I was convinced that Mr. Bartow's subscription would have no effect in procuring others in Hudson, but I was in hopes that it would have such an effect in New-York, and I therefore concluded to have it made in the latter place. I accordingly wrote to my brother requesting him to subscribe \$50,000 either in my name or Mr. Bartow's, or others, as he pleased, and I then looked for Mr. Bartow to get the money, (10 per cent on that sum,) to remit, but I could not find him. I was informed he had gone out to ride, and I became apprehensive that, as it was within a few minutes of the time of closing the mail, I might lose the opportunity if I waited for his return, I therefore drew the check in question, and inclosed it to my brother. I drew it as a check rather than a draft upon Mr. Bartow, because he had said he would provide the money, and because I knew my brother would have to cash it, and I did not think that he ought, as he had no interest in the matter, but would act only as a friendly agent, to be troubled with any thing but cash paper. On the same afternoon I saw Mr. Bartow, and informed him what I had done. He approved of it, and said he would meet the check when presented. In a day or two afterwards he told me that my check had arrived, and that he had paid it. On the 9th May I received a letter from my brother, informing me that he had subscribed for \$40,000 of the stock in sundry names, a part of which was in my name, and a part in Mr. Bartow's. He also inclosed me his check for \$1,000, which I handed to Mr. Bartow, and he endorsed it on my check. At this time it was known to both of us that the stock had been in great demand, and he then requested me to become interested with him in the stock, to get as much allotted on the subscriptions as I could, and also to purchase after the distribution with the money which might be left. On the distribution of the stock by the commissioners, 330 shares, or \$16,500 of stock were allotted to the subscription

which I had thus made. The scrip for 170 shares was issued to my brother in trust, and about the first of June he sent me that scrip with a power of attorney to transfer it, signed by him in blank. This scrip and power of attorney I delivered to Mr. Bartow, personally, a short time afterwards. About the last of June the scrip was issued for 60 shares in his name, and for 100 shares in my name, and for 47 shares which I had purchased agreeable to his request; and on the 30th June I sent him those parcels of stock by mail, with a blank power of attorney signed by myself to transfer them, and at the same time sent him my check for \$1,600. I received an answer from him which I annex, No: 3.

I ought to remark, that considerable delay had occurred in having the scrip issued, and in the mean time I had received one or two letters from Mr. Bartow, which I also annex. After the adjournment of the Legislature, which was on the 12th of May, I never saw Mr. Bartow but twice that I recollect; once, when I delivered to him the scrip for 170 shares, and once in New-York during the summer, when I accidentally met him on the steam-boat dock, and informed him that a call had been made for an instalment on the stock. And I had no intercourse with him except what I have above mentioned, of any nature or upon any subject, after the 12th of May last; at that time he was understood to be a man of property and of fair standing. My acquaintance with him had not been intimate, although we boarded at the same hotel; and when he proposed to take this stock, I made inquiries into his situation and character, and received favorable accounts. I was informed that he was worth about \$30,000, and I supposed that he was, like others in his business, managing the capital of others. I never for a moment supposed, that my check had been paid by the funds of the Commercial Bank, or that I was to be its debtor for any part of my check. I took it for granted from what Mr. Bartow said to me, that he had taken up my check with his own funds, and that he kept it as a memorandum of the amount which I had used for the purpose above mentioned. And I never knew otherwise, until nearly a month after he had absconded; I was then given to understand by some of the directors, that my check belonged to the bank, and that they should claim that I was liable to pay to them its whole amount, deducting only the \$1,000 endorsed, and that I was not to be credited even for the \$1,600 which I had paid. After some inquiry, I found that that sum had been actually paid into the Commercial Bank, or rather that it had been accounted for by the Hudson River Bank, as will appear from the annexed certificate and my check for that amount.

Then, I learned for the first time, that the books of the Commercial Bank showed the same thing, and I was then required to account for the \$2,400 balance on my check. This amount I supposed I was legally liable to pay, until I ascertained, with some difficulty, that that balance had been charged to Mr. Bartow on the books of the Commercial Bank, and my check thus, in fact, taken up by him. At what time that was done I do not know; but this I do know, that I never was apprised by any officer of the bank, or any other person, until after Mr. Bartow had absconded, that

my check had remained for an hour or a moment unsettled for by him, or that it had not been taken up by him, as he assured me that it had. And if it did remain thus unsettled with the Bank, it was entirely without my knowledge or consent. The directors, in their "Expose," say that their "Teller received from Mr. Bartow \$2,600 upon said check, who *then* also directed him to charge the balance of said check, being \$2,400, to his, Bartow's, account." At what precise period this direction was given, the directors do not state, and I have no means of determining, except by the [redacted] of his letter, and my check on the Hudson River bank; and it must, therefore, have been about the 2d day of July last. Whether Mr. Bartow's account was then, or at any other period, good enough to meet that balance, I do not know and did not inquire, because that was a matter over which the directors and not I, had any control. And I submit, that if my check on the Commercial Bank has ever been paid by that institution, and remained unaccounted for by Mr. Bartow, that I cannot justly be held responsible for his delinquency. On the other hand, if I had received timely notice from the bank, I might have protected that institution and myself from the consequences of his fraud or delinquency, so far as this transaction at least is concerned.

I ought also to remark, that on the 17th of July last, Mr. Bartow availed himself of the blank powers of attorney which I had transmitted to him, and had the stock all transferred to himself, except the 170 shares which stood in my brother's name "in trust," and for which, also, he had a blank power of attorney as I have already stated, and it all remains, to this day, in the same situation.

I have been thus particular, and perhaps tedious, in detailing all the minutæ of this transaction, because of my strong anxiety to have it well and publicly known. I have been the subject of much censure and scandal upon this subject during the last fall and winter. I have felt that it was unmerited on my part, and I have been only desirous of laying the facts before the public, so that my fellow-citizens could judge whether I had done any thing to forfeit their confidence and good will.

I never had any other dealings with Mr. Bartow than the transaction which I have now detailed. I never participated with him in buying, or selling, or owning, any other stock or property of any kind, either directly or indirectly. I have not, indeed, even known any thing of his affairs, except from public rumor. If I have been instrumental, by means of this transaction, in aiding him to commit his frauds upon the Commercial Bank, it has been done innocently on my part, and without any suspicion that he intended to commit them. I supposed him, then, to be a man of property and integrity; I knew that his character then stood fair, and I saw him apparently enjoying the unlimited confidence of those who now assail me for having trusted in him to a much smaller extent. My object, principally, was to oblige my native place, and thus, and not for the advancement of my own interest, was I led into this transaction.

It is proper that I should remark, that Mr. Bishop, also at my request, subscribed for some of the Berkshire and Hudson rail-road [Senate, No. 104.]

stock, and at his request, and by his order, I received his return money and transmitted it to him. My check for that amount, with its endorsements, I annex hereto, and pursuant to the request contained in Mr. Bartow's letter of the 19th of June, I transmitted to him the scrip for Mr. Bishop's stock, at the same time I forwarded that belonging to Mr. Bartow.

J. W. EDMONDS.

Hudson, April 25, 1836.

TESTIMONY.

Monday, 4 o'clock P. M.—April 25, 1836.

Committee met pursuant to adjournment.

(On Mr. Edmonds' desire.)

Thomas W. Olcott being called and sworn, doth say as follows: I remember that Mr. Edmonds called on me last spring before the Legislature adjourned, and solicited me to take stock in the Berkshire and Hudson rail-road company; witness declined to do so for the reason that he did not consider it an object of speculation, and supposed Mr. Edmonds to be influenced by local considerations to advance the interests of the city of Hudson, where he, Mr. Edmonds, resides. Witness understands that Mr. Edmonds, after he had made application to him, that he, Edmonds, afterwards made arrangements with Bartow to take the stock spoken of. Witness does not recollect that he was asked if Mr. Bartow was a safe man; but says, that if he had been asked, he would have replied that Bartow was a safe man. Witness says the three letters numbered 1, 2 and 3, are in Bartow's hand-writing. The check dated 30th June, 1835, is endorsed by Mr. Bartow, and is also officially endorsed by the teller. The signature to the certificate dated November 18th, 1835, is the hand-writing of L. A. Coffin, the cashier of the Hudson River Bank.

THOS. W. OLCOTT.

James Taylor being sworn and examined, says: That he is acquainted with the hand-writing of all the persons whose names are endorsed upon the check dated May 15th, 1835, signed Jno. W. Edmonds on the Hudson River bank, for \$700, except the hand-writing of Mr. I. W. Bishop and Mr. I. Grant, jr.

J. TAYLOR.

Rufus Reed being sworn, says: That he lives at Hudson, and was one of the commissioners to distribute the stock of the Berkshire and Hudson rail-road; believes that the commissioners first gave notice on the 13th April, 1835, respecting subscriptions to the stock of the company. The citizens of Hudson at that time manifested much anxiety to have the stock subscribed; this anxiety was communicated to Mr. Edmonds by the witness and others. Witness knows that Edmonds was appointed, at a public meeting, one of a committee to procure subscriptions; recollects that Mr.

Edmonds was present at the meeting when he was appointed, and knows that he addressed the meeting. Witness heard Mr. Edmonds say, that if his public duties at Albany should prevent his attending to the duties of his appointment in this matter, in New-York, he would attend to the subject in Albany, and see that some one would attend to it in New-York. Witness recollects that Mr. Edmonds informed him and other citizens that he had procured or engaged subscriptions to the stock to a considerable amount in Albany, and assured those citizens that there would be no difficulty in selling the stock taken; thinks Mr. Edmonds made several trips between Hudson and Albany to promote subscriptions to the stock of the road. Witness recollects communicating to Mr. Edmonds the fact, that the citizens of Hudson had made arrangements to subscribe a majority of the stock. Witness called upon Bartow, the cashier of the Commercial Bank, shortly after the distribution of the stock, who informed witness that he had requested Mr. Edmonds to purchase stock on his, Bartow's, account. Witness is now a director of the company.

RUFUS REED.

Samuel Anable being sworn, says: That he resides in the city of Hudson, and was formerly mayor of that city. Witness is now a director of the Berkshire and Hudson rail-road company. Knows that Edmonds took great interest and spent much time several years since, to explore the route and obtain a charter for a rail-road from Berkshire to Hudson. Mr. Edmonds acted by virtue of an appointment at a public meeting. Witness has heard the testimony given by Rufus Reed, and all the facts stated by him, with the exception of the conversation had with Bartow, at which he was not present, are, within witness' knowledge, true. Witness knows that Mr. Edmonds was specially charged with the duty of obtaining subscriptions in Albany.

SAMUEL ANABLE.

John J. Hill being sworn, says: That he is deputy clerk of the Senate. Was requested this afternoon by the committee of investigation to give notice to the Commercial bank and its counsel that the committee were ready to proceed in the investigation of their expose, so far as Mr. Edmonds is concerned. Mr. Edmonds accompanied witness. They called first upon Mr. M. T. Reynolds, who has been counsel for the bank throughout the investigation. Mr. Reynolds declined to attend; and he observed that the bank had closed, and that he did not design to attend. Witness and Edmonds next called upon Mr. Benedict, one of the directors of the bank, and told him that the committee were in session, and Mr. Edmonds requested him to attend; and he observed to Mr. Benedict that he could find no one to father the charge against him, Edmonds. Mr. Benedict told him that the antidote accompanied their representation, and it had been a question with the bank whether or not to make any representation against Mr. Edmonds, but finally concluded to do so, and along with Mr. Ed-

monds' check they had given his statement. Mr. Edmonds then observed, "then you do not intend to pursue the investigation against me?" to which Mr. Benedict replied they did not; then Mr. Edmonds said he would go on with it himself. Witness and Edmonds next called upon Mr. Hastings, another director of the Commercial Bank, and Mr. Edmonds remarked that he was looking for the father of the charge by the bank against him, when Mr. Hastings replied that he did not know that the bank had made any. They next went to the banking house and inquired for the cashier, but not finding him there, they left directions for him to attend the committee. Witness afterwards met the cashier at the City Hotel, and he requested him to attend. They also called at the office of Mr. McKown, one of the counsel for the bank, but not finding him there, they were told by a clerk in the office that Mr. McKown had been notified of the investigation for this afternoon in the case of Mr. Edmonds.

JOHN J. HILL.

DOCUMENTS

Referred to in Mr. Edmonds' letter.

May 15, 1835.

Hudson River Bank: Pay I. W. Bishop, or order, seven hundred dollars.

\$700.

J. W. EDMONDS.

980.

No. 1.

Albany, June 19, 1835.

DEAR SIR—Mr. Bates having occasion to visit your city, I avail myself of the opportunity to ask if you will have the goodness to send me by him, the scrip for my Berkshire rail-road stock, and also the balance of the \$4,000 used for subscribing, on which no stock was procured; and also, if practicable, the scrip for my proportion obtained on the indirect subscription. Mr. Bishop, who is quite indisposed, will be glad to have his sent to me by the same hand. I did not receive your favor requesting my proxy until the election was over, and thought it not worth while to tax you with postage to say so.

With my best respects to Mrs. E.

I remain, dear sir,

Yours very truly,

H. BARTOW.

Hon. JOHN W. EDMONDS.

No. 2.

Albany, June 25, 1835.

SIR—I have received no communication from you in accordance with your promise to me—neither my money, my scrip nor the account. If you have not sent it to Albany, direct the whole to me by the next mail, at the City Hotel, New-York, so that I may receive it by Saturday morning.

Respectfully,

Your obedient servant,

H. BARTOW.

I write this on my way to New-York.

Hon. JNO. W. EDMONDS.

No. 3.

Albany, July 2, 1835.

DEAR SIR—I have the pleasure to acknowledge the receipt of your favor of the 30th ult. covering your check on Hudson River Bank, for \$1,600, and Berkshire scrip, 207 shares, and 60 shares. The 60 shares I have delivered to I. W. Bishop, Esq.; the others, and also the check, are applicable to the \$4,000 used by you in subscribing.

I am very respectfully,

Your most obedient servant,

H. BARTOW.

Hon. J. W. EDMONDS, Esquire.

No. 4.

HUDSON RIVER BANK, }
Nov. 18, 1835. }

I certify, that on the 3d or 4th day of July last, I received a letter, of which the following is a copy.

COMMERCIAL BANK, }
Albany, July 3, 1835. }

DEAR SIR—I enclose for collection, William Allen on Rob't A. Barnard, \$819. J. W. Edmonds, (your office,) \$1,600.

I am very respectfully yours,

H. BARTOW, C'r,

Per WILLIAM NESSLE.

L. A. COFFIN, Esq., *Cashier.*

I further certify, that on the 6th of July, the above sum of \$1,600 was charged by us on our books, to Mr. Edmonds, and at the same time passed by us to the credit of the Commercial Bank.

L. A. COFFIN, *Cash.*

No.

Hudson, June 30, 1835.

Hudson River Bank: Pay to H. Bartow, or order, sixteen hundred dollars.

\$1,600.

J. W. EDMONDS.

No. 7.

PHENIX BANK,
New-York, May 13, 1836. }

I do certify, that upon an examination of the books and papers of the Hudson and Berkshire rail-road company, in my possession as the transfer clerk, it appears that two separate parcels of the stock of that company, one consisting of 47 shares, and one consisting of 100 shares, were, on the 17th day of July last, transferred by a power of attorney signed by John W. Edmonds: That the transfer was made by virtue of that power of attorney, to Mr. Lynch, and by him on the same day transferred to Henry Bartow; and the same have ever since, and do now, stand on said books in the name of said Bartow.

I do further certify, that 170 shares of said stock now stand, and ever since the 28th day of May last have stood, on the books of said company in the name of "F. W. Edmonds, in trust."

E. T. HAMMEKEN,
Transfer Clerk.

Sworn to before me, this 13th }
 day of May, A. D. 1836, }

D. HOBART, *Com. of Deeds.*

No. 8

New-York, ss.—Henry Lynch being sworn, says, that on the 26th June, 1835, H. Bartow left with him various parcels of stock, among which was a certificate for 170 shares of Hudson and Berkshire rail-road, in the name of "F. W. Edmonds, in trust;" the same was left subject to Bartow's order, and had a power of attorney endorsed, to transfer the same, which was signed in the name of F. W. Edmonds. Said stock remained in deponent's hands from said 26th June some time, perhaps until the 30th September last, when deponent received an order from Bartow to deliver the same to M. H. Webster, which he did.

Deponent on the 17th July last, received from Bartow, certificates for 207 shares of stock in same company, with directions to have same transferred to him, Bartow, and deponent did so transfer it, first by having it transferred to himself, and then he transferred it to Bartow.

HENRY LYNCH.

Sworn before me this 21st May, 1836,
 S. MELVIN, *Com. of Deeds.*

No. 9.

RAIL-ROAD MEETING.

At a public meeting held pursuant to notice, at the Court-House in the city of Hudson, on the evening of the 23d of April, 1835, of all persons feeling an interest in the construction of a rail-road from Hudson to Berkshire county,

On motion, Col. Elisha Jenkins was chosen chairman, and Henry Hogeboom, Esq. appointed secretary.

It was mentioned that a previous meeting had been held, at which several committees had been appointed, (whose names were read) for the purpose of proceeding to Albany, New-York and Berkshire to arouse attention to this subject; and on motion of Mr. Bushnell, the following resolutions, after being duly seconded, were adopted unanimously.

Resolved, That the common council of this city be requested to appropriate an amount not exceeding \$100 to meet the expenses necessary to carry into effect the object of this meeting.

On motion of Mr. Reed,

Resolved, That a committee of four be appointed to awaken the attention of the citizens of this city to the importance of constructing the proposed rail-road.

Mr. Bessac, Mr. Bame, Mr. Patterson and Mr. Platt, were appointed that committee, with power to fill vacancies and add to their number.

On motion of Mr. Rockwell,

Resolved, That a committee of two be appointed to traverse this county at and near the route of the proposed rail-road, for the purpose of directing attention and awakening interest to the same subject.

Mr. Anable and Mr. Bushnell were appointed that committee, with like power to add to and fill vacancies in their number.

ELISHA JENKINS, *Chairman.*

HENRY HOGEBOOM, *Secretary.*

STATE OF NEW-YORK.

No. 105.

IN SENATE,

May 12, 1836.

REPORT

**Of the Superintendent of Common Schools, on the
petition of Solomon Barrett, Jr.**

**STATE OF NEW-YORK, }
SECRETARY'S OFFICE, }**

Albany, 10th May, 1836.

TO THE SENATE.

The Superintendent of Common Schools, to whom was referred the petition of Solomon Barrett, Jr. has the honor to present the following

REPORT:

The petitioner states that he has been engaged for several years in giving instruction in English grammar, and that he has prepared "a work exclusively devoted to practice, or parsing and scanning," of which he prays the Legislature to procure and furnish a copy to each of the common schools in the State.

Of the merits of the work in question, the Superintendent is unable to speak from personal examination; but whatever value it may have as a text book in the branch of instruction to which it relates, it is conceived that the prayer of the petitioner cannot be granted without establishing a precedent, which could not fail to be a source of embarrassment, if not of injustice. If a text book should be adopted by the Legislature, and furnished to the common schools at the public expense, the authors of other works of

[Senate No. 105.] A

equal merit might justly demand the same favor, and the members of the Legislature would be under the necessity of passing judgment upon the relative claims of contending applicants; a task which could hardly be performed with convenience amid the pressure of their legislative duties, or with such care as to render it certain that their patronage would always be bestowed upon the most deserving. But if the discrimination exercised in canvassing such claims were always unerring, the public treasury, however amply replenished, would be inadequate to sustain the burdens cast upon it, if all were treated with the same impartial justice. The press has during the last five years, produced a larger number of books for common schools, than any previous period of equal duration. Many of these works are of great value, and some on the same subject are so nearly equal in merit, that it is not easy to determine which is entitled to preference. Every author would have a right to ask that his work should receive a careful examination, and, if found equally deserving with others, that it should be furnished to the common schools at the expense of the State. In the progress of improvement, too, most new works may be expected to have some advantage over their predecessors; and, as often as this should be the case, an appropriation from the treasury would be necessary. It is clearly the interest of authors that the Legislature should abstain from the adoption of their works, either by purchase or recommendation; for even if by such adoption a temporary advantage is obtained by a successful applicant for legislative favor, public opinion will at last be the arbiter of his merits. To this standard, in the first instance, it is believed to be equally due to justice and sound policy, that all such claims should be referred.

There are other considerations connected with this subject, of greater importance than any which have been presented: But it is deemed unnecessary to refer to them. It may, however, be briefly suggested, that in giving a direction to the thoughts in youth, the common schools exercise a powerful influence in the formation of social and moral character. The principal instruments through which that influence is exerted, are the books used in them; and for this reason it is deemed important that those immediately interested should not be overruled in their choice by legislative authority. Works of a purely scientific character, involving axioms neither of moral nor political duty, might, so far as this consideration is concerned, be provided for the schools in

the manner proposed, without objection. But the precedent might, in less virtuous times than our own, be made subservient to the introduction of a totally different class of works, and to the propagation of moral and political tenets of the most dangerous tendency.

The Superintendent is of the opinion that the prayer of the petitioner ought to be denied.

JOHN A. DIX.

THE UNIVERSITY OF CHICAGO
PRESS

STATE OF NEW-YORK.

No. 106.

IN SENATE,

May 18, 1836.

REPORT

**Of the joint committee of the Senate and Assembly
on so much of the Governor's message as relates to
domestic slavery.**

Mr. Mack, from the joint committee of the Senate and Assembly, to whom were referred so much of the Governor's message as relates to the constitutional rights and the safety of the States in respect to domestic slavery, and sundry communications from the States of Virginia, Ohio, Maine, &c., upon the same subject,

REPORTED:

Concurring in the views and sentiments which were so fully and ably expressed upon this subject in the message of his excellency the Governor, and witnessing the salutary influence which the patriotic stand thus taken by our Chief Magistrate, and other causes, were exerting upon the public mind to arrest the progress of abolition doctrines and efforts, the committee have not deemed it incumbent upon them to report at an earlier period of the session: Nor do they now consider it their duty to occupy ground which may revive unpleasant and unprofitable controversy, and disturb that healthful state of public sentiment, upon a hitherto exciting topic, which seems so happily to exist.

The committee may repeat, as peculiarly applicable at the present time, the declarations of his excellency the Governor, that "our constituents have expressed their enlightened and deliberate judgment upon the subject under consideration;" that, "with an

[Senate, No. 106.]

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earnestness and unanimity never before witnessed among us, they have, without distinction of sect or party, in their primary assemblies, and in various other ways, expressed their attachment to the constitution of the federal government; their determination to maintain its guarantees; their disapprobation of the whole system of operations set on foot by the abolitionists; their affection for their brethren of the south; and their fixed purpose to do all that in them lies, consistently with law and justice, to render these sentiments effectual;" and that *"it is not to be believed that these manifestations of public sentiment have been or will be disregarded by those who have been engaged in, or given countenance to, the abolition proceedings."*

"I am fully persuaded (observes his excellency,) that the powerful energies of public opinion, as it has been called forth throughout the whole State, have already produced most salutary effects, in disabusing many persons who had inconsiderately concurred in the visionary schemes of the abolitionists."

And, he adds:

"Relying on the influence of a sound and enlightened public opinion, to restrain and control the misconduct of the citizens of a free government, especially when directed, as it has been in this case, with unexampled energy and unanimity to the particular evils under consideration, and perceiving that its operations have been thus far salutary, I entertain the best hopes that this remedy, of itself, will remove these evils, or render them comparatively harmless."

The result has demonstrated to every impartial observer, that this reliance upon the virtue, intelligence and patriotism of the people of this State, was founded upon a just estimation of their character.

Public opinion—"enlightened public opinion"—is the conservative principle of free government. Without its sustaining power, the proudest and purest constitution which the wisdom of man could devise, would be as indefinite and unstable as an oral compact; and the strongest and most rigid laws that could be framed in accordance with its restrictions and obligations, would be weak and fragile as spiders' webs. To this tribunal may be appropriately and safely referred all errors and differences of opinion—all

mental agitations and discussions which involve religious creeds—abstract political rights, or measures of public policy.

But a just, a liberal and an enlightened condition of public opinion, cannot be produced or sustained, except where a free press is recognized and cherished in harmonious alliance with the constitution and the laws. The "liberty of speech and of the press" is guarantied by the Constitution of this State and that of the United States: and it is a most delicate and difficult task of discrimination for legislators to determine at what point this rational and constitutional liberty terminates, and venality and licentiousness begin. It is indeed more safe to tolerate the licentiousness of the press than to abridge its freedom; for a corrective of the evil will be generally found in the force of truth and the influence of those moral principles and energies which unrestrained discussion seldom fails to elicit.

It has not, therefore, been at any time the intention of the committee, nor do they believe it would comport with the views of any member of the government, to recommend the adoption of any measure which should "restrain or abridge the liberty of speech or of the press," as secured by the Constitution, and deeply interwoven with the institutions and habits of the people. They are well persuaded, that the efforts of designing faction, of unchastened ambition, of false philanthropy and misguided zeal, to disturb the peace and endanger the safety of our sister States of the South, and involve us in serious difficulties with them, have so far yielded to rational reflection and the force of public sentiment as to render legislation upon this subject unnecessary and inexpedient.

But in justice to themselves and to the occasion, the committee must express their accordance with the opinion of his excellency the Governor, "that the Legislature possesses the power to pass such penal laws as will have the effect of preventing the citizens of this State and residents within it, from availing themselves, with impunity, of the protection of its sovereignty and laws, while they are actually employed in exciting insurrection and sedition in a sister State, or engaged in treasonable enterprises, intended to be executed therein."

What point of obligation, what degree of danger or of necessity, may justify the exercise of this power, and to what extent it may be carried consistently with the letter or spirit of the Con-

stitution, the committee are not now called upon to determine. The crisis which may demand and justify its exercise, they trust is far distant: most fervently do they hope it may never arrive.

The people of this State, by their ready and numerous manifestations upon the subject under consideration, have furnished renewed and honorable evidence of their attachment to the Union: They have "frowned indignantly upon the first dawnings" of an insidious attempt to separate them from those with whom their welfare and prosperity are identified. They have, without religious or political distinction, declared their readiness to forego and to discountenance the exercise of abstract rights and the discussion of speculative doctrines, which are calculated to disturb those domestic relations of other States that are recognized and guaranteed by the Constitution, and to endanger the peace, the prosperity, and the lives of their citizens: And should occasion require, they will be found ready, in the same spirit of forbearance, under a deep sense of the obligations which rest upon them as christians and as patriots, to make further sacrifices and to incur greater responsibilities; to strengthen those bonds which constitute as one the American people, and to cherish and perpetuate our free and happy form of government.

The committee, therefore, find themselves relieved from all painful responsibilities, and respectfully recommend to the Legislature the adoption of the following

RESOLUTIONS:

Resolved, by the Senate and Assembly of the State of New-York:

1. That the views and sentiments contained in the late annual message of the Governor of this State, recognizing the constitutional right of the several States of the Union to regulate and control, within their own limits, the relations of master and slave, and to continue or abolish the same, as the governments of those States may respectively deem consistent with their duty, safety and welfare, meet the full and cordial concurrence of this Legislature.

2. That the people of this State, by responding, with unexampled unanimity, to those views and sentiments, and manifesting their determination to abstain from and to discountenance, those political agitations and public discussions of the subject of domes-

tic slavery, which were calculated to produce an exciting, an improper and a pernicious influence within the limits of other States, have given to the Union stronger guaranties than law could furnish, and rendered present legislation upon the subject, by their representatives, unnecessary and inexpedient.

3. That the Governor be requested to transmit a copy of the foregoing report and resolutions to each of the Senators and Representatives of this State in Congress; and also a copy to the Executive of each of the States of the Union, with a request that they be submitted to the respective Legislatures thereof.

STATE OF NEW-YORK.

No. 107.

IN SENATE,

May 18, 1836.

COMMUNICATIONS

From John I. Mumford and Isaac W. Bishop.

Letter from Mr. Mumford, enclosing one from Mr. Bishop.

To the HON. SAMUEL YOUNG,

*Chairman of the Committee of Investigation in the
case of Messrs. Bishop and Kemble.*

SIR,—It will be remembered by the committee, that, during my examination on the 15th March last, Mr. Bishop so far attempted to impeach my credibility as a witness, as, not only to deny the existence of a letter said to have been written to me in 1832, but, that he threatened to request a *subpœne duces tecum* to be issued, to compel me to produce such letter if I had it, or to expose my want of veracity. I testified that said letter was in my bureau, in New-York, and having found it there on the 16th instant, I herewith enclose it with a request that that it may be laid before the Senate, and go to prove alike the accuracy of my memory and the truth of my testimony. I also enclose, with same request, a copy of Mr. Bishop's letter to Mr. Noah, (bearing *date* even with the *post-mark* on that to me) likewise alluded to in my testimony, as furnishing, by a comparison of the dates and contents of each, good reason for the strong expressions repeatedly used by me in reference to this correspondence. On perusing the "additional testimony," as published in connexion with the proceedings of the Senate on the 12th instant, (which I saw for the first time this morning) I perceive that my evidence is fully corroborated by Mr. Emmet, as it had been by Mr. Livingston of the Senate, and that Messrs. Flagg and Hubbell (witnesses for Mr. Bishop) sustain, in

[Senate, No. 107.]

A

stead of impeaching my credibility. As to the "*malice*" which Mr. Hubbell deemed to be so apparent, I have only to say that it is in the knowledge of several members of the committee, that I had, *immediately* anterior to my interview with Mr. Bishop, given proof of a disposition any thing but malignant in reference to the individual whose appointment to office Mr. Bishop threatened to prevent. Had I been malignant towards Mr. Bishop, I had full opportunity to indulge my feelings when his letter was received, and his treachery became apparent by the publication (unintended by him) of his letter to Mr. Noah. *Then*, the scourge of scorpions might have been applied by the editor of the Standard, to the recreant of his party and a hollow friend; but justice slept and pity rendered judgment. I have often heard, and believe, that on my answer to this letter of Mr. Bishop, he made and won large bets, thus showing *his* confidence in my statements, and proving that his pecuniary affairs were benefitted by a party editor, rather than sacrificed, as he asserts, for that party.

In conclusion, I beg to call the attention of the committee to the admission of Mr. Bishop, both in the Senate and before the committee, of the accuracy of the statements made by the Hon. C. L. Livingston and myself; and I respectfully submit, whether the attempt to invalidate my testimony, in the *manner* that attempt has been made, does not place the Hon. Senator in the stocks prepared for me. It is the *truth*, extracted from me and not volunteered, (for I begged to be excused from a subpoena) which annoys the Senator, who would fain put me upon trial for incompetence as a witness, instead of purging himself of alleged corruption. *Haret latere lathakis arundo.*

Very respectfully, your ob't serv't,

JOHN I. MUMFORD.

Albany, May 18th, 1836.

I shall esteem it a favor if you will present this letter, with the accompanying letter and copy, to the Hon. the Senate this morning, to be made part of, and printed with, the proceedings in the above case.

J. I. MUMFORD.

Granville, Aug. 26, 1832.

JOHN I. MUMFORD, Esq.

Dear Sir—I have just noticed the *open apostasy* of the *Courier and Enquirer*. Will you inform me by return mail what, in your opinion, will be the effect of that movement upon the politics of your city and county. Also give me a sober, serious opinion as to the probable majority for the Jackson electoral ticket in your city and county. Some of our friends here have made, and are making, bets upon your city and county, and I want your judgment. What do you think of things generally.

Yours truly,

ISAAC W. BISHOP.

4th Senate District, put down

Washington, majority for the coalition,.....	1,000	
Warren; republican,		600
Saratoga,.....		500
Essex,.....	400	
Clinton,.....		300
Franklin,	300	
St. Lawrence,		600
Montgomery,.....		800
	<hr/>	<hr/>
	1,700	2,800
		1,700
		<hr/>
Jackson majority,		1,100

I do not believe the result will vary 500 from the above.

The veto message ought to be read by every intelligent man in your city; it is doing wonders for us here.

[From the New-York Mercantile Advertiser of 4th Sept. 1832.]

Granville, Washington Co., N. Y., August 27, 1832.

MORDECAI M. NOAH, Esq.

Dear Sir—The undersigned, who have always been admirers of your uniform democratic course as a politician and an editor, and who are all of us in favor of the State and general administrations, are anxious that a new paper should be established in the city of New-York to be under your sole direction. We therefore respectfully submit to your consideration the propriety

of establishing a new press, which we feel confident would prove to be the most popular democratic journal in this country.

The undersigned agree to become subscribers to such a paper, and can assure you that the same feeling would induce hundreds in this section of the country to become subscribers.

We are, dear Sir,

Yours most respectfully,

Isaac W. Bishop,
Lee T. Rowley,
Chas. Chandler,
Gordon Smith,
Arch Bishop,
Samuel Smith,
Alfred Bulkley, jr.
Jonathan Barrett,
William R. Huggins,
Milton Clarke,

Joseph Holmes,
William Woods,
Thomas J. Wakefield,
Thomas J. Aunden,
Thomas Crocker,
Lyman Ellsworth,
Lemuel Ellsworth,
Tyler L. Freeman,
Lyman Broughten.

[Copied from the files of the Mercantile Advertiser by John I. Mumford.]

Letter from Isaac W. Bishop.

To his Excellency JOHN TRACY,
Lieutenant-Governor, &c.

I respectfully request through you to communicate to the Senate a simple statement of facts in relation to a correspondence transmitted to the Senate by John I. Mumford. I will forbear making any allusions to the motives or character of Mr. Mumford, as not adapted to the present time or occasion.

Mr. Mumford stated before the committee, that his hostility to me originated from a correspondence which had occurred between him and myself, &c. It is true that I denied that he was in the possession of any correspondence which justified his extreme hostility towards me. How far the correspondence justifies him in the course he has taken, it is for the Senate to judge.

The whole facts in the case are simply and concisely as follows: Mr. Noah had for a long time been a favorite editor with the democratic party of Washington county, and his paper was extensively circulated there. At the period Webb deserted and engaged in the service of the Bank, Mr. Noah inserted a card in the *Courier and Enquirer*, disclaiming any participation in the course

of Webb, and assuring his old democratic friends of his adherence to their principles. A number of republicans of Washington county believing him to be sincere, requested me to write the letter above alluded to. Mr. Noah, in answer, concluded by saying, that as he had been among the first to support General Jackson, he should be the last to desert him.

This sincere effort upon our part to sustain by all means in our power the General and State administrations, and to subdue the United States Bank, was construed by Mr. Mumford into an act of hostility to him, and hence his untiring violence and abuse towards me from that period to the present time. The motives and object of writing the above letter to Mr. Noah, are well known to Cornelius L. Allen, Esq. a prominent republican of Washington county, who is district attorney of the county, and is now in town.

ISAAC W. BISHOP.

STATE OF NEW-YORK.

No. 108.

IN SENATE,

May 16, 1836.

REPORT

Of the Attorney-General on two petitions of Archibald Campbell, of the county of Dutchess.

ATTORNEY-GENERAL'S OFFICE, }
Albany, May 13, 1836. }

HON. JOHN TRACY,
President of the Senate.

SIR—I have the honor to send herewith, a report upon two petitions by Archibald Campbell, which were referred to me by the Senate.

With great respect,
Sir, your most obedient servant,
S. BEARDSLEY.

[Senate No. 108.]

A

REPORT.

ATTORNEY-GENERAL'S OFFICE, }
Albany, May 13, 1836. }

The Attorney-General, to whom was referred by the Senate, two petitions by Archibald Campbell, of the county of Dutchess,

REPORTS:

That one of said petitions represents, that the petitioner is son and heir of Archibald Campbell, deceased: That Beverly Robinson was indebted to the deceased in his life time, in the sum of £100.16.6; with interest; a note for which sum is annexed to said petition: That no part of said note has been paid except £24.4, endorsed thereon. The petitioner claims not only to be heir to his deceased father, but also to his deceased brother, Duncan Campbell. It is alleged in the petition, that Robinson was attainted by an act of the Legislature of New-York of the 22d October, 1779, and his property confiscated; and that the moneys arising from the sale of said property, or some part thereof, still remain in the treasury of this State. It is also alleged in the petition, that the heirs of said Archibald Campbell, deceased, did not receive this note until 1787, so that they could not present it for payment under the act of 19th May, 1784: That a petition for the payment of said note was presented to the Assembly in 1795, and a favorable report made thereon; and another, with a like result in 1801; but the note having in the mean time been lost, a petition for its payment was reported against in 1802: That said note was not found until 1834, and was regained by the petitioner in 1835. The petitioner now prays for its payment by the State.

The note annexed to the petition has the appearance of an ancient paper, and is probably genuine; and it is true that said Robinson was attainted, and his estate, "real and personal," confiscated, as is alleged in the petition. The act of 19th May, 1784, provided for the payment of debts due from persons attainted, as is suggested in the petition; and it also appears from the Journals of the Assembly of 1795, 1801 and 1802, that petitions were pre-

sented and reports made, as the present petition states. As to the other matters of fact alleged in this petition, the papers which accompany it do not furnish any evidence in their support, nor has the Attorney-General been able to obtain any information thereupon.

The other petition represents, that the petitioner at the breaking out of the war of the revolution, was an infant about seven years of age, and with his younger brother, (since deceased,) resided on a farm then possessed by his father in the county of Dutchess: That about the 11th of April, 1776, certain persons claiming to act under the authority of a county committee, seized and took possession of the farm and the personal estate of said Archibald Campbell, since deceased; a part of which personal estate they sold, and the residue was subsequently sold by the commissioners of sequestration for said county—the proceeds of both sales being equal to \$692.28 in specie, and that the money arising from said sales was paid into the treasury of the State. The petitioner however alleges, that the personal property so seized, was worth at least \$2,260 in specie. It is admitted in the petition, that Archibald Campbell, deceased, was an officer in the British army, and served as such against the United States, and that he was killed on the 17th of March, 1777, at the White Plains, in Westchester county. The petitioner denies that his father ever was attainted, or his property confiscated, and alleges that the seizure and sale of his property was without any lawful authority.

As to the farm, the petition alleges that the State authorized the Attorney-General to compromise with the petitioner for his right to it, in 1792, and that this was accordingly done, so that no claim is now interposed for the land.

The petitioner states that he applied to the Legislature for relief touching the personal estate, about 1795 or 1796, and again in 1801, and that he has been informed that favorable reports were made, but finds nothing on the journals upon the subject: That the papers relating to said claim were lost from 1801 to 1834, and not regained by the petitioner until 1835, although he had made thorough search therefor after their loss in 1801. It is alleged that on the decease of the father of the petitioner, the petitioner and his brother became entitled to his estate by a will dated the 17th October, 1776: That the brother of the petitioner died about

thirty years since, leaving the petitioner his heir: That the petitioner has uniformly resided in this State, is a citizen thereof, and entitled to the benefit of its laws; wherefore relief, as to the property so seized and taken, is prayed by the petitioner.

On the 6th of April, 1792, an act was passed, (see laws of 15th session, p. 51, the last section but one,) which directed the treasurer of the State to pay "to Stephen Ward and Jonathan G. Tompkins respectively, such sums as the Attorney-General should certify to be due to them respectively, on settling the claim of the representatives of Archibald Campbell, to certain lands in the county of Dutchess, purchased by the said Stephen Ward, and two acres of land and a mill purchased by the said Jonathan G. Tompkins, of the commissioners of forfeitures, or the commissioners for procuring a sum of money in specie." There is in the office of the Secretary of State, a conveyance to the people of the State of New-York, by the petitioner as one of the devisees of said Archibald Campbell, deceased, and by John MacKay, as administrator, &c. on his estate, of all right to said farm, which right was founded on a lease to the deceased, dated 4th December, 1767, and for the term of fifty-seven years. This conveyance was upon the consideration of one thousand pounds paid by the Attorney-General, and is dated May 2d, 1792. The affidavit of Sarah Shaw, who is described therein as a cousin of the petitioner, and of the age of seventy-four years, bears testimony to most of the facts stated in the petition, as original grounds of relief.

The same may be said of the affidavit of Isaac Haviland.

There is amongst the papers, an inventory, made, as is stated, in 1795, by Reed, Ferris and others, of what is said to have been the personal property of said Archibald Campbell, then deceased, and which inventory is sworn to by said Ferris and others. In this inventory the said property is appraised, as it was in 1776, when the Pawlingtown committee took it in possession, at the sum of £654.3.8 in specie. It would seem, however, from the other papers, that the personal estate of said Campbell, sold by the commissioners of sequestration for Dutchess county, and by members of a county committee, amounted to £385.9.5, continental money.

There is an entry in a memorandum book, dated 17th October, 1776, and signed "Archibald Campbell," that it is his "will and

pleasure, that" his two boys, Archibald and Duncan, left at Fredericksburg, should have between them the farm and stock, with the mill and one hundred pounds each, after all debts paid. The will, if correctly understood by the Attorney-General, also gives £800 to the brothers of the testator.

In the reference of these papers there is no indication of what is desired of the Attorney-General. He presumes that a principal object was to obtain such information upon the subject, as might be collected in the State offices, and his attention has been directed accordingly. He, however, has been unable to discover any thing in either of the State offices, bearing upon the matters in question, except the conveyance in 1792, before mentioned.

The Attorney-General supposes that he might with propriety stop here, but as the reference is general, he ventures to add a few suggestions.

1. There is no evidence, unless the statements in the petition are to be regarded as such, to shew that the petitioner alone is now entitled to represent the rights, whatever they were, of his deceased father.

2. Nor is there any other evidence furnished to support the allegation in the petitions, that the papers were lost for some thirty years, and thus to furnish an apology for the omission to prosecute these claims during that period.

3. It is perhaps fairly inferable from the two papers; (one signed "*Peter Curtenius, State Auditor,*" and the other "*Henry Livingston, Jr. late Com'r. Seques'n. for Dutchess,*") that the proceeds of the personal estate of Archibald Campbell, deceased, to the amount of £885.9.5, were paid into the State treasury.

4. It is admitted that the father of the petitioner was an officer in the British army, and that when his property was seized, he was bearing arms against this country. But the seizure, as is alleged, was in April, 1776; not only prior to the adoption of a constitution by New-York, but before either of the colonies had assumed the position of absolute independence. At that period the government of New-York, so far as it had any, was in a great degree irregular and unsettled. The provincial government had been suspended and abandoned in 1775, from which time until the organization of a State government under the constitution of 1777, the public concerns were managed by a provincial congress and local committees.

But without attempting to define or investigate the powers of what was the government of New-York or of the united colonies in April, 1776, it may suffice to remark, that they claimed to possess, and in fact exercised, sovereign authority touching both foreign and domestic concerns. War then existed, and was carried on between the King of Great Britain and these States. That relation unquestionably gives to the sovereign authority full right to seize and confiscate the property of the enemy, wherever found. But the assertion of a right to seize and confiscate the property of the enemy, depends on the will of the sovereign power; the property does not vest in the belligerent government on the mere happening of a war. "War gives the right to confiscate, but does not itself confiscate the property of an enemy." (*Brown vs. The U. S.* 8 Cranch R. 110.) This right might at that time have been enforced by a bill of attainder, or a judicial proceeding under authority of a legislative act; but the Attorney-General has not been able to ascertain that either course was taken in regard to the property of the deceased Archibald Campbell. Indeed, an inference may perhaps be fairly drawn from the act of 6th April, 1792, (before referred to,) and the subsequent purchase by the State, of the interest of the representatives of the deceased, in the unexpired lease, that no legal steps had been taken to confiscate the property of the former owner, or if any had been taken that they were not consummated, or could not be proved.

But it may not be important to ascertain precisely what were the rights of the deceased, or his representatives, at or shortly after the seizure of this property. It is certain that the petitioner can obtain no legal redress now, whatever might have been done at that period. The only relief he can look for is from the justice or the liberality of the Legislature. Whether he is entitled to any thing at their hands, is properly confided to their discretion.

S. BEARDSLEY

STATE OF NEW-YORK.

No. 109.

IN SENATE,

May 26, 1836.

REPORT

Of the Commissioners of the Land-Office, relative to the re-payment, in certain cases, of moneys paid for taxes.

Pursuant to the directions of the act, entitled "An act authorizing the re-payment, in certain cases, of moneys paid for taxes," passed October 25, 1828, the Commissioners of the Land-Office hereby report to the Legislature the names of the persons to whom warrants have been ordered under the said act, since their report made on the 9th May, 1835, and the amount of such warrants, respectively, as follows:

Date of order.	Names of persons.	Amount of warrant.
1835, July 31.	Nicholas Bleecker,	\$2 87
" Aug. 14.	John Brush,	61 12
" Nov. 27.	F. M. Kip,	1 61
" " 30.	Coe S. Downing,	3 38
" Dec. 7.	James Wadsworth,	11 97
1836, March 11.	John Kiersted,	16 42
" April 11.	John W. Bloomfield,	15 81
" " 19.	John Tracy,	9 01
" May 12.	Samuel Greene,	9 80
" " 17.	William A. Sutton,	10 15

Albany, 26th May, 1836.

JOHN A. DIX, *Secretary of State.*

A. C. FLAGG, *Comptroller.*

WILLIAM CAMPBELL, *Sur. Gen.*

STATE OF NEW-YORK.

No. 110.

IN SENATE,

May 26, 1836.

MESSAGE

From the Governor, returning the bill relative to Geneva College.

TO THE SENATE.

The bill entitled "An act to amend title seventh, chapter fourteenth, of the first part of the Revised Statutes," was sent to me this day from the house of Assembly, and I have approved the same. The third section of that law confers on the Medical Faculty of Geneva college precisely the same powers and privileges proposed to be conferred on them by the bill to authorize the Medical Faculty of Geneva college to appoint a delegate to the State Medical Society; it is therefore, in my opinion, entirely useless for the said bill to become a law. With this objection I return it to the Senate, wherein it originated.

W. L. MARCY.

Albany, 26th May, 1836.

[Senate No. 110.]

A

INDEX

TO THE

DOCUMENTS OF THE SENATE.

1836.

	No.
Ashes, report of William Dumont, inspector of,	34
Albany pier, report of committee relative to an opening in, ..	75
Abolition societies, <i>see</i> Slavery.	
Attorney-General's report on the pet. of Archibald Campbell, ..	108
Bank, Commercial, investigation, report of the committee, ..	94,
95, 101, 102,	104
Bank, Central, report of unclaimed deposits, &c.	24
Bank, Troy Savings, report of,	32
Banks, report of their issues on the 1st January, 1836,	33
Bank, Fulton, report of unclaimed deposits,	40
Bank, Tanners', report of unclaimed deposits,	42
Bank of America, report of unclaimed deposits,	45
Bank of Ogdensburgh, report of unclaimed deposits,	57
Bank, Schenectady Savings. report of,	41
Bank, Bowery Savings, report of,	53
Bank, New-York Savings, report of,	54
Bank, Greenwich Savings, report of,	69
Bank, Troy Savings, report of,	90
Banks and insurance companies, report of committee on, re- lative to mutual insurance companies,	25
Beef and pork, report of George W. Gunn, inspector of,	46
Beef and pork, report of William Barber, inspector of,	56
Bishop, Isaac W., report of committee rel. to, ... 94, 95, 96, ..	101
communication from,	107
Black River canal, report of committee on,	96
Brady, Thomas, and others, report of committee on pet. of, ..	14
Committees, standing, of the Senate,	7
on Governor's message,	11
Commissioners of the Land-Office, report relative to Dennis McCarthy's estate,	16
relative to the lands of the State,	29
on the petition of Jesse Porter and others,	82
relative to the lands of John G. Leake,	86

[S. DOCUMENTS.]

A

	<i>No</i>
Commissioners of the Land-Office, report	
relative to Freemasons' patent,.....	91, 92
on the pet. of the Auburn and Syracuse rail-road co.,	103
relative to the repayment of moneys paid for taxes,..	109
Comptroller, report rel. to an execution against Porter and	
Barton,	17
report rel. to the extension of Spring-st. in Sing-	
Sing,	51
report rel. to the revenues of the lateral canals,	59
report of the amount of taxes paid by each coun-	
ty from 1816 to 1826,	67
report relative to the sale of lands near the Os-	
wego canal, &c.	73
Commissioners of the Canal fund, report of the amount of tolls	
collected on all the canals, and property transported	
for 1885, &c. &c.	70
Common schools, report of Superintendent of,.....	47
Chancellor, report relative to the business of his court,....	74
Chamberlain, B. letter from,.....	76
Commercial Bank investigation, report of committee, ...	94, 95,
101, 102,	104
Charitable and religious societies, report of committee on	
pet. of Thomas Brady and others,.....	14
pet. of inhabitants of Poughkeepsie,	37
Canal convention, memorial of,	21
Constitution, resolutions for amending,	22, 27, 48
Canals, committee on, report on the Black River canal,.....	36
report rel. to eastern termination of the	
Erie,	99
Canal Board, report on the subject of a supply of water for	
the Rome summit,	61
report on cost of Champlain canal,.....	72
report of business of Erie canal, &c.....	81
Canal Commissioners, report on pet. of Luther Pardee et al.	63
Barent and John R. Bleecker,	64
Isaac Brown, jun,	78
Onondaga and Madison cos. rel. to	
Limestone and other creeks, &c.	80
Deaf and dumb, report of the Central asylum for,	49
Eastern termination of the Erie canal, report of canal com-	
mittee on the subject,	99
Edmonds, John W. report of committee relative to,.....	104
Finance, report of committee, on David W. Smith's petition,	19
taxing debts of non-residents,	30
finances of the State,	35
Fish, report of Hiram Scofield, inspector of,.....	55
Freemason's patent, report of Commissioners of the Land-	
Office, relative to,	91, 92

	No.
Governor's (W. L. Marcy) annual message,.....	1
committees on,.....	11
special message, rel. to the relief of the sufferers from a fire in N. York,	2
transmitting res. from Michigan rel. to slavery,..	77
from Kentucky, rel. to slavery, &c.....	79
Pennsylvania, rel. to the public lands,.	83
Maine, relative to slavery,.....	85
Ohio, relative to slavery,	87
returning bill relative to Geneva college,	110
Gordon, Thomas F. report of committee on his petition, ...	28
Hops, report of Cornelius Higgins, inspector of,	13
Inspectors of lumber, hops, ashes, leather, beef and pork, and fish, <i>see</i> Reports of.	
Insurance companies, mutual, report of committee relative to,	25
Judiciary committee, report on pet. of Samuel B. Nicholl,..	44
on pet. of Sally Goff,	68
relative to the judiciary system,	66
on pet. of Chauncey Brainard,..	84
relative to powers and trusts, ..	89
on pet. of the Moral and Equita- ble association,	97
bill for the relief of David Fitz- gerald,	98
Kemble, John C. report of committee relative to,.....	94
Lumber, report of H. Salisbury, inspector of,	9
N. Challes, do	26
B. C. Capron, do	39
Leather, report of George Charles, inspector of,.....	43
Leather, sole, report of George P. Hudson, inspector of,....	50
Literature, report of committee on, on Thos. F. Gordon's pet.	28
Members of the Senate, list of, and residence in the city,....	5
with nearest post-office, &c. .	18
McCarthy, Dennis, report of Commissioners of Land-Office relative to his estate,	16
Memorial of a Canal convention rel. to Black River canal, ..	21
Memorial of the Medical society of the State of New-York,	38
Mount-Pleasant State prison, <i>see</i> State prisons.	
Medical society of the State, memorial of,.....	36
Manufactures, report of committee on, relative to the Pough- keepsie clock manufacturing company,	68
Montgomery court-house and jail, report relative to,	93
Mumford, John I. communication from,.....	107

	No.
New-York, Governor's special message relative to a calamitous fire in,	2
report of joint committee on do.	4
New-York eye infirmary, report of,	100
New-York and Lake Erie rail-road, <i>see</i> Rail-road.	
Neversink navigation company, report of a committee relative to a loan of the State to the,	60
Oneida county, report of committee on pet. of supervisors of,	15
Pier at Albany, <i>see</i> Albany.	
Report of the trustees of the State library,	3
joint committee on the subject of a fire in N. Y..	4
committee to examine the Treasurer's accounts,.	8
trustees of the State Hall,	6
H. Salsbury, inspector of lumber,	9
Nathaniel Challes, do	26
B. C. Capron, do	39
Cornelius Higgins, inspector of hops,	13
William Dumont, inspector of pot and pearl ashes,	34
Hiram Scofield, inspector of fish,	55
George Charles, inspector of leather,	43
George P. Hudson, inspector of sole leather,	50
George W. Gunn, inspector of beef and pork, ...	46
William Barber, do do ...	56
Justices of supreme court, rel. to the business before them,	31
Superintendent of common schools, (annual,) ...	47
do. on pet. of Solomon Barrett, jun.	105
inspector of salt in Onondaga county,	10
inspectors of State prison at Mount-Pleasant, ...	23
trustees of the Sailors' snug-harbor,	52
Regents of the University,	65
secretary of the N. York and Erie rail-road,	71
Chancellor, relative to the business of his court,.	74
surgeons of the N. York eye infirmary,	100
Attorney-General, on pet. of Archibald Campbell,	108
Central asylum,	49
Canal Board, rel. to a supply of water for the Rome summit,	61
cost of construction of the Champlain canal, &c.	72
business of the Erie canal, &c.	81
Canal Commissioners on pet. of L. Pardee et al..	63
Barent and John R. Bleeker,	64
Isaac Brown, jun.	78
rel. to Limestone creek, &c.	80
Commissioners of the canal fund, of the tolls and property transported on the canals, &c. for 1835,	70

Report of the com. on roads and bridges, on pet. of Philip Schuyler and others,	12
com. on the judiciary, on pet. of the Moral and Equitable association,	97
bill for the relief of D. Fitzgerald,	98
pet. of Samuel B. Nicholls,.....	44
rel. to the judiciary system,	66
pet. of Sally Goff,	68
pet. of Chauncey Brainard,.....	84
relative to powers and trusts,	89
com. on rail-roads, on bill to construct the New-York and Erie,	62
com. on finance, on D. W. Smith's petition,	19
taxing debts of non-residents,	30
the finances of the State,....	35
com. on banks, &c. rel. to mutual insurance cos.,	25
com. on manufactures, rel. to the Poughkeepsie clock manufacturing company,	88
com. on literature, on pet. Thos. F. Gordon,....	28
com. on canals, on Black River canal,.....	36
joint com. on the subject of domestic slavery,....	106
select com. on pet. of Thos. Brady and others,..	14
on pet. of inhabitants of Poughkeepsie,	37
on pet. of the board of supervisors of Oneida county,	15
on pet. of trustees of Seaman's fund retreat,	20
on loan to Neversink navigation co.,	60
on pet. for an opening in the Albany pier,	75
rel. to Montgomery court-house, &c.,	93
on the Commercial Bank investigation,	94,
101, 102,	104
on communication of Lewis Benedict relative to Mr. Bishop,	96, 101
Commissioners of the Land-Office, rel. to Dennis McCarthy's estate,	16
rel. to the lands of the State,	29
pet. of Jesse Porter and others,.....	82
rel. to the lands of John G. Leake,.....	86
rel. to Freemasons' patent,	91, 92
pet. of Syracuse and Auburn rail-road co.	103
rel. to repayment of moneys paid for taxes,	108
Comptroller, rel. to an execution against Porter and Barton,	17
rel. to the extension of Spring-st. in Sing-Sing,	51
rel. to the revenues of the lateral canals,.	58
of the amount of taxes paid by each county, from 1816 to 1826,	67
relative to the sale of lands near the Owego canal, &c.	73

